# BANKRUPTCY RULES

for the

## UNITED STATES DISTRICT COURT

and the

## UNITED STATES BANKRUPTCY COURT

for the

## NORTHERN DISTRICT OF ILLINOIS

Adopted: 24 June 1994
Effective: 11 July 1994
Revised: February 8, 2001

# *Introduction*

These local Bankruptcy Rules are intended to conform to the following guidelines:

1. They should be consistent with Acts of Congress, the Federal Rules of Bankruptcy Procedure, the Federal Rules of Civil Procedure.

2. They should not repeat any provisions of Acts of Congress, the Federal Rules of Bankruptcy Procedure, or the Federal Rules of Civil Procedure.

3. They should include all local General and Civil Rules of general procedural impact, most of which are presently adopted as local Bankruptcy Rules, so as to keep practice before the Bankruptcy Court procedurally similar to practice before the rest of the District Court and to provide those practicing primarily before the Bankruptcy Court a convenient single set of those rules specifically relevant to proceedings before that Court.

4. They should allow flexibility and judicial discretion in case management, and simplicity in procedures.

5. They should conform as much as possible to present practices and procedures.

6. They should provide guidance to counsel through the *Committee notes* following each rule.

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## RULE 100. DEFINITIONS

The following definitions shall apply to the local Bankruptcy Rules:

(1) "Court" or "Bankruptcy Court" shall mean the bankruptcy judges of the United States District Court for the Northern District of Illinois who collectively comprise the unit of the District Court for that District known as the Bankruptcy Court.

(2) "Fed.R.Bankr.P." shall mean the Federal Rules of Bankruptcy Procedure promulgated by the United States Supreme Court, as amended from time to time.

(3) "Chief judge" shall mean the chief judge or acting chief judge of the Bankruptcy Court.

(4) "Clerk of the Court" shall mean the duly appointed clerk of the Bankruptcy Court.

(5) "Clerk" shall include the clerk of the Court, any deputy clerk, and any member of a judge's staff who has taken the oath of office to perform the duties of a deputy clerk.

(6) "Courtroom deputy" shall mean the deputy clerk assigned to perform courtroom duties for a particular judge.

(7) "District Court" shall mean the United States District Court for the Northern District of Illinois.

(8) "Executive Committee" shall mean the Executive Committee of the United States District Court for the Northern District of Illinois.

(9) "Local General Rules" and "local Civil Rules" shall mean, respectively, the General Rules and the Civil Rules promulgated by the District Court.

(10) "Judge" shall mean any bankruptcy judge authorized to hold court in this District.

(11) "Local Bankruptcy Rules" shall be these Rules and any other Rule pertaining to this Court promulgated by authority of the District Court and the Bankruptcy Court for this District. "Rule ____" shall refer to a rule within these local Bankruptcy Rules.

(12) "The Bankruptcy Code" shall mean Title 11 of the United States Code, as amended from time to time.

(13) "Trustee" shall mean the person appointed or elected pursuant to the Bankruptcy Code, but excluding the debtor-in-possession under Chapter 11.

(14) The terms “motion,” “petition,” and “application” refer to any request for an order, however characterized.

## RULE 101. SCOPE OF RULES

### A. Scope of Rules

These local Bankruptcy Rules are promulgated by the District Court and the Bankruptcy Court pursuant to Fed.R.Civ.P. 83 and Fed.R.Bankr.P. 9029. They may be cited as "local Bankruptcy Rules," and shall govern procedure in the Bankruptcy Court and in the District Court in all bankruptcy cases and proceedings as defined in 28 U.S.C. § 157 to the extent that they are not inconsistent with applicable law, the Fed.R.Bankr.P., or the Official Bankruptcy Forms. These local Bankruptcy Rules shall be construed to secure the expeditious and economical administration of every case within the District under the Bankruptcy Code and the just, speedy, and inexpensive determination of every proceeding therein.

### B. Previous Bankruptcy Rules and General Orders Rescinded

All local bankruptcy rules adopted by the District Court prior to the adoption of these rules, all general orders entered by the Bankruptcy Court prior to the adoption of these rules and all standing orders entered by individual bankruptcy judges prior to the adoption of these rules are rescinded.

### C. Application of Local General and Civil Rules

The local ules of this District other than these Bankruptcy Rules shall apply to the Bankruptcy Court and bankruptcy cases only when such rules or these Rules so specify, or when applied by any judge to proceedings before that judge in situations not covered by these rules or other applicable law.

## RULE 200. SEAL OF THE COURT

The seal of this Court shall be circular, shall be two inches in diameter, and shall include the words "United States Bankruptcy Court for the Northern District of Illinois" in a circle surrounding a replica of the face or eagle side of the Great Seal of the United States.

*Committee Note*: This rule is the same as District Court Rule 1.13 except for the substitution of the word "Bankruptcy" for "District," and is the same as this Court's general order dated 13 March 1980. It also comports with the actual seals on display in each courtroom and used by the clerk.

**RULE 201. ACTING CHIEF JUDGE.**

If the chief judge is absent from the District or is unable to perform his or her duties, such duties shall be performed by the judge in active service, present in the Eastern Division of the District and willing to act, who is next in seniority of the date of his or her commission, other than a recalled judge. Such judge is designated as the acting chief judge on such occasions.

*Committee Note*: The rule would provide for acting chief judge in specified circumstances, in accord with present practice. Appointment and duties of the chief judge are prescribed by statute, 28 U.S.C. § 154(b).

## RULE 202. MEETINGS OF THE COURT

The chief judge shall preside at meetings of the full Court.

*Committee Note*: The judges prefer not to have additional procedures fixed by rule.

## RULE 203. RULE AMENDMENTS AND GENERAL ORDERS

### A. Procedure for Proposing Amendments to Rules

Amendments to these rules may be proposed to the District Court by majority vote of all the judges.

### B. General Orders

Pursuant to 28 U.S.C. § 154(a) the judges shall by majority vote adopt general orders of the Court to determine the division of work among the judges. The judges may also by majority vote adopt general orders of the Court with respect to internal Court and clerical administrative matters, provided that no such general order of the Court shall conflict with applicable law, the Fed.R.Bankr.P., these local Bankruptcy Rules, or other local rules of the District Court. All such general orders shall be assigned numbers and be made public by the clerk of the Court.

### C. Standing Orders of Individual Judges

Nothing herein contained shall limit authority of each judge to issue standing orders generally applicable to administration or adjudication of cases and matters assigned to that judge without approval of the Bankruptcy Court or District Court, to the extent the same are not in conflict with applicable law, the Fed.R.Bankr.P., these local Bankruptcy Rules, or other local rules of the District Court. Copies thereof will be supplied upon issuance thereof to the clerk, who will make the same public.

*Committee Note*: This rule provides a procedure for future recommendations by this Court for changes in these rules. It also implements the collective statutory responsibility of bankruptcy judges to apportion work assignments, and authority to issue general orders of this Court to govern internal administrative matters and standing orders of individual judges to govern each judge's cases. These respective authorities are now exercised by the Court and judges, and adoption of sections B and C are not deemed legally required. However, such adoption is recommended so as to inform the legal community.

## RULE 204. REGULAR SESSIONS AND PLACES OF HOLDING COURT

### A. Places of Holding Court

The regular places of holding court in the Eastern Division shall be the Everett McKinley Dirksen Courthouse at Chicago, Illinois and the United States Courthouse and Federal Building in Rockford, Illinois. In addition, this Court may hold court on a regular basis at Geneva, Joliet, Waukegan, and Wheaton in the Eastern Division.

### B. Limitation on Holding Court Elsewhere

No judge of this Court shall hold a special session or sessions of the Court at a location or locations other than the regular places of holding court, without first having obtained permission from the Executive Committee, provided that if an emergency arises at night, on Saturdays or Sundays or holidays, a judge may entertain motions, applications, or petitions away from a regular place of holding court.

*Committee Note*: This rule is based on local General Rules 1.10 and 1.11, modified to include the additional places of holding court for bankruptcy judges authorized by the Judicial Conference of the United States pursuant to 28 U.S.C. § 152(b). The final provisions of section B of this rule, i.e., holding court elsewhere in response to after hours emergencies, is authorized under 28 U.S.C. § 152(c).

## RULE 205. RECORDS OF THE COURT

### A. Place of Keeping Records

The records and files of the Court shall be kept at Chicago and Rockford, Illinois, and maintained by the clerk of the Court. From time to time the clerk of the Court shall, pursuant to an order of the chief judge, transfer records in closed cases to the Federal Records Center. In the Western Division, the judge senior in length of service among the bankruptcy judges permanently assigned to that Division may issue such order in the absence of an order of the chief judge.

### B. Copies of Records

The clerk of the Court or any persons or entity designated by order of court, on request and upon prepayment of costs, shall make copies of any document in the clerk's custody unless prohibited by law, court order, or a local Bankruptcy Rule.

*Committee Note*: Source is local General Rule 1.12. The reference to the Western Division judge is to enable the judge assigned to that Division to continue management of the physical space available to the Court in Rockford.

## RULE 206. PAYMENT OR DEFERRAL OF FEES IN ADVANCE OF FILING

### A. Filing Fees to be Paid in Advance; Exception

The clerk shall not accept for filing any original petitions for relief unless accompanied by payment of all applicable filing fees or unless allowed to do so by court order.

### B. Order Permitting Filing Without Prepayment of Fee

A court order allowing the filing, without advance payment of filing fees, of a petition for relief under the Bankruptcy Code may be issued by a judge, but only if all of the following conditions are met:

(1) the petition is a voluntary petition filed by an individual or by two married individuals filing jointly;

(2) an application for leave to file without payment of filing fees and to pay the fees in installments and within the time limits provided in Fed.R.Bankr.P. 1006(b) has been filed with a judge, particularizing the reasons why the fee cannot be paid upon filing, and setting forth the number of installments, the amount of each installment, and the dates on which the installments will be paid;

(3) the attorney's disclosure of compensation required under 11 U.S.C. § 329 and Fed.R.Bankr.P. 2016(b) has been attached to the application and reflects that no compensation has been paid to any attorney in connection with the petition;

(4) the court order provides a schedule for payment of the requisite fee in installments; and

(5) applicable law does not forbid deferral of the fee involved.

### C. Filing Fees for Documents Other Than Original Petitions

Upon receipt of filings, other than original petitions for relief, that are not accompanied by requisite filing fees, the clerk will accept, file, and docket same, but then transmit such filings to the assigned judge for consideration. In the absence of payment of required fees, or deferral of such payment by order under this section, the judge may strike a filing without notice.

*Committee Note*: This rule is based on this Court's general order of 13 September 1983, modified and adapted to bankruptcy procedures, and in accord with present practices under existing general orders. Other applicable rules generally require all filings to be accepted by the clerk, even if fees are not tendered, but under Fed.R.Bankr.P. 1006, the clerk may not accept original bankruptcy petitions when unaccompanied either by the fee or a court order deferring the fee. This rule sets forth procedures and requirements applicable thereto. Compare to local General Rule 11 as amended 4 January 1993, wherein no distinction need be made between different types of filings. Rule 501 provides a special procedure for rustees in estates without assets.

## RULE 207. SOLICITING AND CAUSING DISTURBANCE

Soliciting, the unapproved congregating of groups, or the causing of a disturbance or nuisance, or interference with court hearings on the floors of a courthouse or other place in which the judges of this Court may sit is prohibited.

*Committee Note*: Based on local General Rule 1.51 However, the word "loitering" has not been used because it is vague.

## RULE 208. USE OF PHOTOGRAPHIC, RADIO, AND TELEVISION EQUIPMENT IN THE COURT ENVIRONS

In accordance with Rule 1.52 of the General Rules, the taking of photographs, radio and television broadcasting, or taping on the floors of the courthouse in which the judges may sit is prohibited during the progress of or in connection with judicial proceedings, whether or not Court is actually in session.

*Committee Note*: This rule is based on General Rule 1.52, modified to delete the reference to United States magistrate judge. This rule is not intended to prohibit the use of tape recorders by attorneys in the attorney conference rooms.

## RULE 209. ENFORCEMENT OF RULES 207 AND 208

The United States marshal, deputy marshals, and other security personnel of the District and the Court shall enforce Rules 207 and 208, either by ejecting violators from the courthouse or by causing them to appear before one of the judges of the District Court for a hearing and the imposition of such punishment as that judge may deem proper. Nothing in this rule shall preclude or exempt investigation or prosecution under applicable statute or regulation.

*Committee Note*: This rule is a modification of local General Rule 1.53.

## RULE 210. RETURN OF MAILED NOTICES

Envelopes containing notices generated by automation and mailed by the clerk will bear the return address of debtor's counsel or the debtor if *pro se*.

*Committee Note*: About 40,000 notices generated by the automatic BANS system are returned by the Post Office to the Clerk's Office each year because addresses supplied by debtors are incomplete or incorrect. This poses a heavy administrative burden on the clerk to call the errors to the attention of debtors, who have a duty under 11 U.S.C. § 521 and Fed.R.Bankr.P. 1007 to provide correct addresses. If the notice cannot be served by the clerk, it is usually in debtor's interest to send the notice immediately to the correct address of the creditor and to file proof of said service with the clerk. Such action will give the debtor a basis to contend that each creditor's debt is discharged, and that creditors are barred after the time set by statute from contesting discharge or debt dischargeability.

This rule will cause the Post Office to return most of the misaddressed notices to debtors' attorneys. As a result they will receive any returned notice much faster than they would if the notices were first returned to the Clerk's Office and then sent to counsel. In addition, this procedure lessens the administrative burden on the clerk. The rule does not apply to notices by the clerk generated manually, as that would impose a heavy administrative burden on the clerk.

This rule replaces a general order of 16 December 1992.

**RULE 211. RESERVED**

## RULE 212. PROTECTION OF COMPUTERS

**A.** Only software properly licensed to the Court may be installed on any computer owned, leased, or rented by the Court. Such software may be installed on personal computers, and/or network computing systems owned and/or used by the Court, only by duly authorized members of the Court's Systems Department, except for such software that any judge wishes to use within the chambers of that judge.

**B.** Any diskettes introduced into any Court-owned or operated computers or into network computing systems must first be scanned for computer "viruses" by the Systems Department, unless the computer or system has been loaded with an automatic virus scanning software.

*Committee Note*: This is intended to reinforce training of persons using computers, to provide a basis for sanctioning persons who fail to comply, and to provide guidance to contractors who work on the equipment.

## RULE 300. ASSIGNMENT OF CASES

Except as provided in Rules 311 and 312, the assignment of cases to calendars of judges designated by general orders adopted pursuant to 28 U.S.C. § 154(a) and Rule 203(b), both upon initial filings and upon reassignments, shall be by lot, through use of any physical or electronic devices approved by the chief judge. Such assignment shall be made by persons under the supervision of the clerk of the Court, under general direction of the chief judge.

*Committee Note*: This rule is based on local General Rule 2.01, modified to apply to this Court.

## RULE 301. IMPOSITION OF SANCTIONS RELATING TO INTERFERENCE WITH THE ASSIGNMENT SYSTEM

### A. Application of Sanctions to Employees of the Clerk's Office

No clerk or other employee of the Clerk's Office shall—

(1) reveal the sequence of judges' names within the assignment system;

(2) reveal to any person the sequence of names of Chapter 7 trustees designated by the United States trustee; or

(3) number or assign any case or matter, otherwise than as provided by these rules.

Any employee violating this provision shall be discharged from service. Any violation of this provision may constitute contempt of court.

### B. Application of Sanctions to Persons other than Employees

No person shall directly or indirectly cause or procure or attempt to cause or procure any clerk or other employee in the Clerk's Office—

(1) to reveal to any person the sequence of judges' names within the assignment system,

(2) to reveal to any person the sequence of names of trustees designated by the United States trustee, or

(3) to number or assign any case or matter, otherwise than as provided by these rules.

Any violation of this provision may constitute contempt of court.

*Committee Note*: This rule is based on local General Rule 2.02, modified to eliminate reference to Executive Committee, and to insert reference to sequence of assignment of panel Chapter 7 trustees in Chapter 7 proceedings. Under this draft, while treatment of violators "may" be treated in contempt rather than attempting to mandate that result, a violation by the staff "shall" result in discharge. Such a draconian result should always follow such a serious breach of integrity.

## RULE 302. MATERIALS TO BE FILED IN DIVISION IN WHICH CASE IS FILED

Documents commencing a bankruptcy case shall be filed in the divisional office of the division in which the proposed debtor resides. Unless otherwise ordered by the court, following the filing of a case all materials relating to that case shall be filed in the divisional office of the division to which the case is assigned at the time of the filing.

*Committee Note*: This rule is based on local General Rule 8. It differs from that rule and General Rule 2.22D in that it does not permit the filing of a bankruptcy case in a division other than the one in which venue lies.

**RULE 303. REASSIGNMENT**

No case shall be transferred for reassignment from the calendar of a judge to the calendar of any other judge except as provided by these rules or by other applicable law. Nothing in this rule shall prohibit a judge from transferring a specific matter for hearing and determination by another judge in the interest of judicial efficiency and economy, or when exigency requires.

*Committee Note*: This rule is based on local General Rule 2.03. The second sentence is new. It codifies present practice in the Bankruptcy Court.

## RULE 304. EMERGENCY JUDGE

### A. Designation of Emergency Judge

At all times there shall be at least one judge assigned to act as emergency judge and perform the duties specified by these rules. The judges shall serve as emergency judge for terms specified in section B in order of seniority, unless they exchange or otherwise rearrange their duty periods by agreement. No judge shall serve as emergency judge within the ninety days immediately following taking the oath of office. The chief judge shall not be required to serve as emergency judge.

### B. Terms of Service of Emergency Judge

The term of service of an emergency judge shall start at 12:01 A.M. on Monday and end at midnight on the Sunday immediately preceding the Monday starting the next term of emergency judge. The length of each term shall be set by general order of this Court.

*Committee Note*: This rule is based on Interim Bankruptcy Rule 1.20, modified in accord with present practice and to permit flexibility in fixing terms of service. It is subject to the flexible approach of Rules 303, 305, and 307, which permit individual judges to exchange or otherwise rearrange their matters and duties to accommodate personal needs and exigencies.

## RULE 305. DUTIES OF THE EMERGENCY JUDGE

### A. General

The emergency judge will be responsible for hearing all emergency matters not previously assigned to a judge, and all emergency matters that arise at a time that the judge to whom the matter is assigned is absent. The emergency judge shall also act on matters in the absence of the assigned judge, unless the assigned judge has made arrangements with another judge to do so under Rule 307.

### B. Absence or Unavailability of Emergency Judge

Should the emergency judge be absent or unavailable duringher or his term as emergency judge, that judge shall arrange with another judge to exercise the duties as emergency judge. The chief judge and clerk of the Court shall be informed of the substitution.

### C. Posting Notice Identifying Emergency Judge

A notice identifying the emergency judges will be posted by the clerk.

*Committee Note*: This rule is a modification of local Interim Bankruptcy Rule 1.21. It authorizes the emergency judge to hear and decide matters of a judge by request of the chief judge or of that judge who is absent or whose work load prevents immediate attention to urgent matters, in accord with present practice. The assigned judge may arrange with a different judge to do so under Rule 307.

## RULE 306. EMERGENCY MOTIONS

A matter brought as an emergency motion must be of such a nature that any delay in hearing would result in serious, irreparable harm to one or more of the parties to the proceeding.

*Committee Note*: This rule is based on local Interim Bankruptcy Rule 1.22, rewritten to apply the standard to an "emergency motion" before any assigned judge as well as before the emergency judge.

## RULE 307. TEMPORARY ABSENCE OR UNAVAILABILITY OF THE ASSIGNED JUDGE

Any judge who plans to be absent from the Court should arrange for another judge to sit in the stead of the absent judge. Any judge whose workload makes it difficult to hear a particular matter in a case may arrange for another judge to sit in the stead of the unavailable judge in that matter. A notice shall be posted indicating the name of the judge who will hear matters and the room number of that judge's courtroom. Copies of that notice will be supplied to the clerk of the Court and chief judge.

*Committee Note*: This rule is based on General Rule 1.23 and local Interim Bankruptcy Rule 1.23, modified to make clear that the absent judge may make temporary arrangements with any judge, not only with the emergency judge in accord with present practice.

## RULE 308. CLASSES OF MATTERS

All cases and proceedings filed in this Court shall be assigned to one of the following two classes:

(1) ADVERSARY PROCEEDINGS (A), which includes all adversary proceedings and Security Investor Protection Act proceedings; and

(2) BANKRUPTCY (B), which includes all bankruptcy cases or ancillary proceedings, other than Security Investor Protection Act proceedings.

*Committee Note*: This rule is based on local General Rule 2.10, rewritten to apply to bankruptcy matters and ancillary proceedings. The bankruptcy court's jurisdiction over liquidation proceedings brought under § 5 of the Securities Investor Protection Act of 1970, 15 U.S.C. § 78eee, is provided under 15 U.S.C. § 78eee(b)(2) and (4).

**RULE 309. NUMBERING MATTERS**

Upon the filing of the initial paper in each case or proceeding, the clerk shall assign a permanent designation which shall indicate the year in which it was filed, the class to which it belongs, and the case or proceeding number, as follows:

(1) The year of filing will be indicated by the use of the last two digits of the calendar year in which the initial paper is filed.

(2) The class to which the matter belongs will be indicated by the use of the letter A or B to indicate respectively the classes of proceedings or cases.

(3) The case number will be the next number in the appropriate class. There shall be a separate number series for each class. Each series used in the Eastern Division will start each year with the number 1 and each used in the Western Division with the number 50001.

*Committee Note*: This rule is based on local General Rule 2.12.

## RULE 310. CALENDARS

### A. General

The bankruptcy cases, ancillary matters, and adversary proceedings assigned to each judge shall constitute the calendar of that judge.

### B. Calendar of a Judge who Dies, Retires, or Resigns

Matters on the calendar of a judge who dies, resigns, or retires shall be reassigned by the clerk of the Court as soon as possible under direction of the chief judge, either *pro rata* by lot among the remaining judges, or by transfer in its entirety or in part to another judge.

### C. Calendar for a Newly-Appointed Judge

A calendar shall be prepared for a newly-appointed judge to which cases shall be transferred by the clerk of the Court under direction of the chief judge in such number as the chief judge may determine, either by lot from the calendar of other judges, or by transfer in whole or part of the calendar of a judge who has died, retired, or resigned. If transfer is by lot from the calendar of other sitting judges, no case or proceeding is to be transferred if it is certified by the assigned judge to be one in which that judge has engaged in such a level of judicial work that reassignment would adversely affect judicial economy.

*Committee Note*: This rule is based on local General Rule 2.13, modified to permit a judge to withhold from transfer a case in which considerable judicial work would have to be repeated if the case were reassigned. The sitting judge would best know whether that is so.

## RULE 311. REASSIGNMENTS

### A. Reassignments and Assignment of Cases by the Chief Judge

The chief judge may reassign cases or proceedings from and to any judge, and may decline to reassign related cases or proceedings under Rule 312, in order to adjust case loads or otherwise to promote efficient judicial administration.

### B. Limited Reassignments for Purposes of Coordinated Pretrials in Complex Cases

Two or more judges may determine that it would be efficient to hold coordinated pretrial proceedings in a group of matters that are not related within the meaning of Rule 312. Where such a determination is made, those judges will designate one or more of themselves to conduct the pretrial proceedings. The matters shall remain on the calendars of the judges to whom they were assigned.

### C. Recusals

Whenever a matter is transferred to the chief judge for reassignment following a recusal, the chief judge shall direct the clerk to reassign the matter by lot to a judge other than the judge who entered the recusal or a prior recusal in the matter.

### D. Temporary Incapacity of a Judge

The chief judge may reassign matters from any judge who, due to temporary incapacity, is unable to administer a full calendar. Such transfers may be made only after consultation with the affected judge unless circumstances make such consultation impractical. After recovery of that judge, the chief judge may return all or some of the reassigned matters to the original judge, after consultation with both judges involved and determination whether such return would adversely affect judicial economy.

*Committee Note*: This rule is modeled after local General Rule 2.30(c)(e)(f)(g)(h) and (i), abbreviated and modified to apply present practice and permit flexibility to deal with case loads, exigencies, and the need for consideration of what should be returned to a judge recovering from disability.

## RULE 312. RELATED CASES

### A. Relatedness Defined

Two or more cases are related if one of the following conditions is met:

(1) the debtors are husband and wife; or

(2) a case under the Bankruptcy Act or the Bankruptcy Code was previously commenced by or against the same debtor in this Bankruptcy Court; or

(3) the cases involve persons or entities that are affiliates as defined in 11 U.S.C. § 101(2).

### B. Assignment of Related Case by Clerk at Filing

If at the time of filing a case meets the conditions for direct assignment set out in the general order covering assignments, that case shall be assigned by the clerk directly to the calendar of the judge to whom the earlier-numbered related case was assigned, if that judge is still sitting. If that judge is not sitting, the clerk will assign the case at random.

### C. Transfer to Chief Judge for Reassignment as Related

Subject to Rule 311 A, the judge to whom a later-numbered related case is assigned may transfer it to the chief judge for reassignment to the judge to whom the earlier-numbered case was assigned.

### D. Motion for Reassignment Based on Relatedness

A motion for reassignment based on relatedness may be made by any party in interest. The motion shall set forth the points of commonality of the cases in sufficient detail to indicate that the cases are related within the meaning of section A of this rule. The motion shall be filed with the judge before whom the later-numbered case of those alleged to be related is pending.

## E. Effect of Filing County on Reassignments for Relatedness

Related Chapter 7 and Chapter 13 cases arising from counties other than Cook county may be assigned only by order of the chief judge. For purposes of the initial assignment, the county in which the debtor resides shall govern.

*Committee Note*: This rule is based on local General Rule 2.31A, but it is revised substantially to be in accord with the Court's present practice. Reassignment for "equalization of calendars" provided in the local General Rule 2.31F is eliminated as such equalization is made by the chief judge pursuant to Rule 311 A. A general order presently provides that a case is related if it involved the same property as did an earlier case. That provision is eliminated as a mandatory requirement, but such a fact may warrant reassignment in particular cases where issues regarding that property were considered.

## RULE 313. COMPUTER READABLE LISTS OF CREDITORS

In any case filed under Chapters 7 and 11 of the Bankruptcy Code where the number of creditors exceeds 500, the petition for relief shall be accompanied by a listing in a computer readable format designed and published from time to time by the clerk of the Court of the names and complete addresses, including zip codes, of the following:

(1) the debtor;

(2) the attorney of record;

(3) all creditors secured and unsecured; and

(4) all other parties in interest entitled to notice in the case,

Upon motion for cause shown, the judge may excuse debtor's compliance with this rule.

Committee Note: This incorporates the provisions of the Bankruptcy Court's general order of 17 August 1988 more properly adopted as a rule. See Rule 1103 for a related requirement.

## RULE 400. FORM OF PAPERS FILED

### A. Numbering Paragraphs in Pleadings

Allegations in any pleading or request for an order shall be made in numbered paragraphs, each of which shall be limited, as far as practicable, to a statement of a single set of circumstances. Responses shall be made in numbered paragraphs, first setting forth the complete content of the paragraph to which it is directed, and then setting forth the response.

### B. Size of Paper; Binding; Caption; Signature, Name, Address, and Phone Number of Person Filing Pleading

Each document filed shall be flat and unfolded (except that appended exhibits filed in normal size for legibility may be folded to 11 inches), shall be plainly written, or typed with not less than one and one-half spaces between lines, or printed, or prepared by means of a duplicating process, without erasures or interlineation which materially deface it, on opaque, unglazed, white paper 8-1/2 x 11 inches in size, and shall be secured by staples or other devices piercing the paper on the top at the left corner of the document. Paper clips or other clips not piercing the paper are not acceptable. The first page of each document shall bear the caption, descriptive title, and number of the action or proceedings in which it is filed, the case caption and chapter of the related bankruptcy case, name of the judge to whom that case is assigned, and the next date, if any, that the issue is set. The final page of each document required to be signed by counsel shall be signed by one or more licensed attorneys or by an individual party filing *pro se*. That final page must contain the name, the District Court attorney identification number if admitted to practice before that Court, address, and telephone number of the attorney in active charge of the case as well as that of the attorney signing the pleading, or address and telephone number of the individual party filing *pro se*. Copies of exhibits appended to documents filed shall be legible.

### C. Format of Answers to Interrogatories

A party answering interrogatories shall set forth immediately preceding each answer a full statement of the interrogatory to which the party is responding. When objecting to an interrogatory or to the answer to an interrogatory, a party shall set forth

each interrogatory immediately preceding the objection.

**D. Briefs Limited to Fifteen Pages**

No brief shall exceed fifteen pages without prior approval of the judge.

**E. Documents Not Complying with Rule Filed Subject to Being Stricken**

The clerk shall bring to the judge's attention any document filed in violation of this rule. Such document is subject to being stricken by the judge without prior notice. The emergency judge or judge assigned to the case or matter may allow a document not in conformity with this rule to remain on file or may direct the filing of any communication to the court deemed appropriate for filing.

**F. Note or Memo Attached to Subpoena**

The attachment to a subpoena of a note or other memorandum containing instructions to the witnesses regarding the exact date, time, and place of appearance, or the delivering of such a note or memorandum of the persons served shall not affect the validity of the subpoena.

**G. Limit on Number of Interrogatories**

Any party desiring to serve interrogatories in excess of the number permitted by Fed.R.Bankr.P. 7033 shall seek leave of court by written motion setting forth the proposed additional interrogatories and the reasons establishing good cause of their use.

**H. Judge's Copy**

Each person or party filing a pleading, motion, or document, other than a deposition or exhibit, shall file, in addition to the record copy, a copy for use by the judge.

*Committee Note*: Rule 400 is based on General Rule 9. In conformity with present Fed.R.Civ.P. 5 (Fed.R.Bankr.P. 7005) and Fed.R.Bankr.P. 5005 the clerk must

accept anything offered for filing regardless of form if requisite filing fees are tendered. To prevent abuses, this rule directs the clerk to bring improper filings to a judge for prompt decisions on whether to strike them. See *Transamerican Corp. v. National Union Fire Ins.*, 143 F.R.D. 189 (J. Lindberg, N.D. Ill. 1992)

Judges may, however, permit informal filings, particularly by *pro se* litigants. Attorneys should usually be held to compliance with formal requirements. The clerk should not have the burden of handling documents that are unfastened, unsigned, or oversized, but the clerk should not and, under the rules referred to, cannot be empowered to refuse acceptance of filings.

Certain requirements set forth in sections A and C are now required in adversary cases by Bankruptcy Rules, but not in contested proceedings unless ordered. This rule standardizes the requirements.

## RULE 401. PROCEDURES FOR HANDLING RESTRICTED DOCUMENTS

### A. Definitions

The following definitions shall apply in interpreting this rule:

(1) A "suppressed document" is a document or an exhibit filed in a proceeding in this Court to which access has been restricted by a written order.

(2) A "sealed document" is a suppressed document which the court has directed is to be maintained within a sealed enclosure such that access to the document requires breaking the seal of the enclosure.

(3) A "document awaiting expunction" is a document or an exhibit in a proceeding which the court has ordered held for possible expunction pursuant to 21 U.S.C. 844(b)(2) but for which the period for holding prior to final destruction has yet to pass.

(4) A "restricted document" is a suppressed document or a document awaiting expunction.

(5) A "protective order" is an order which provides that certain documents or exhibits to be filed with the court at a future date may be filed as suppressed or sealed documents as determined by the order.

### B. Clerk to Maintain Secure Filing Area for Restricted Documents

The clerk of the Court shall maintain or cause to be maintained restricted documents separately from the files of documents to which access has not been restricted. Any area used to store restricted documents shall be secure from entry by any persons other than the clerk of the Court or those clerks designated in writing by the clerk of the Court as authorized to maintain documents and have such access.

### C. Order Suppressing Documents.

The court may on written motion and for good cause shown enter an order directing that one or more documents to be used in a proceeding be suppressed. The order shall specify the persons, if any, who are to have access to the documents without further order of court. In addition, the order shall specify one of the following:

(1) that the document is to be returned to a person specified in the order in

the same fashion as is provided for in Rule 414, provided that, if the person to whom it is to be returned fails to remove the document after notice, it shall be destroyed by the clerk; or,

(2) the date or conditions under which the document is to be un-suppressed and made part of the public file of the proceedings; or

(3) that the clerk is to bring the matter of the disposition of the suppressed document to the court's attention following the closing of the case and either (a) the expiration of the time to file a notice of appeal, if no appeal was filed, or (b) if an appeal was filed, the filing of the mandate or final order resulting from the appeal, if the case is not reopened as a result of the terms of the mandate or order.

The order entered pursuant to this section shall set forth all qualifications as to access and disposition of the documents contained in the order.

**D. Filing of Suppressed Documents**

(1) Any documents tendered for filing under the terms of a protective order shall be subject to the prohibition against filing discovery materials provided for in Rule 406B of these rules.

(2) Where the materials tendered under protective order are tendered in a sealed enclosure, the following statement shall be written on the enclosure: "This is not material relating to discovery."

(3) Materials accepted for filing as suppressed shall be maintained in a secure area until collected by one of the deputies designated in section B of this rule. Where the materials so accepted are being filed pursuant to a protective order, the clerk accepting them will stamp the cover of the document with a FILED stamp indicating the date of filing.

**E. Docketing Suppressed Documents**

Where a suppressed document is filed in a proceeding for which a docket is maintained, an entry will be made on the docket indicating that a suppressed or sealed document has been filed, but no further description will be made on the docket.

Orders and minute orders directing the suppression or sealing of a document will be docketed in the usual manner.

**F. Sealed Documents**

(1) Where a document is ordered to be sealed, it is to be delivered for filing pursuant to section D of this rule with the seal on the enclosure intact. If the document is sent from the judge's chambers or returned from an appellate court with the seal broken, the clerk authorized to handle suppressed materials pursuant to section B of this rule will forthwith deliver the document to the judge to whose calendar the proceedings in which the sealed document was filed is assigned. If that judge is no longer sitting, the document will be delivered to the emergency judge. The judge receiving it will either order that the document be re-sealed, or order that it continue to be handled as a suppressed document, but not as a sealed document, or enter such other order as required to indicate the status of the document. Where the document is to be re-sealed, the judge or clerk will re-seal the document and transmit it to the clerk of the Court or clerk authorized to maintain restricted documents.

(2) Where, under the terms of a protective order, a party is permitted to inspect a sealed document and that party requests access to the document, one of the clerks authorized, pursuant to section B of this rule, to handle restricted materials will obtain the document and provide an area where the person may inspect the document, other than in the public area of the Clerk's Office. That clerk will complete a form showing the date, description of the document, the name of the person requesting access to the document, a statement indicating that the clerk has reviewed the protective order and determined that said order authorizes the person to inspect the document, and a statement that the clerk requested of, and was shown, identification by the person requesting access to the document. If that person wishes to break the seal and inspect the document, he or she must sign the form completed by the clerk to indicate that such person is authorized to inspect the document and has broken the seal. After the person has completed the inspection, the clerk will follow the

procedures set forth in this section for handling the resealing of documents.

## G. Disposition of Suppressed Documents

When a case is closed in which an order was entered pursuant to section C of this rule, the clerk shall, in compliance with the terms of the order, either return the suppressed document to the specified party, or un-suppress the document, or bring the document to the attention of the judge for a determination of the disposition of the document. Where the latter action is to be taken, the judge may enter an order specifying that the document is to be disposed of in one of the following ways:

(1) the clerk will return the document to a specified person in the same fashion as is provided for in Rule 414; or

(2) the document will be un-suppressed and made part of the public record of the proceedings; or

(3) where the document is in a case belonging to a class of cases in which records of proceedings are destroyed after a specified number of years after closing of the case pursuant to the then applicable *Schedule for the Disposition of Court Records* issued by the Administrative Office for the United States Courts, the clerk will maintain it as suppressed until the record of proceedings is destroyed and thereafter destroy it; or

(4) where the document is in a case belonging to a class of cases in which the records of proceedings are permanently retained pursuant to the *Schedule for the Disposition of Court Records* but is not a document of the class normally made part of the permanent record of proceedings, the clerk will maintain it as a suppressed document for an additional ten years and then destroy it; or

(5) where the document is in a case belonging to a class of cases in which records of proceedings are permanently retained pursuant to the *Schedule for the Disposition of Court Records* and is a document of the class normally made part of the permanent record of proceedings, either (a) the clerk of the Court will maintain it as a suppressed document for a period not exceeding 20 years at the end of which the document shall be un-suppressed and made a part of the public record of the proceedings; or (b) the judge will make a written finding that the

document should never be unsuppressed and direct the clerk of the Court to maintain it as a suppressed document for a period not exceeding twenty years and, thereafter, to destroy it.

**H. Documents Not Suppressed, Sealed, etc., are Public**

All documents which are filed with the Court and are not suppressed, sealed, restricted, or awaiting expunction shall be part of the public record of the proceedings.

**I. Forbidden Acts and Sanctions**

Employees of the Court are forbidden to perform any of the following acts:

(1) entering an area designated for the storage of restricted documents without the authorization required by section B of this rule;

(2) assisting any person who is not authorized access pursuant to section B of this rule to an area designated for the storage of restricted documents to gain or to attempt to gain access to such an area;

(3) accepting for filing any suppressed document when not specifically authorized to do so pursuant to section D of this rule;

(4) permitting any person who is not specifically authorized to have access to a restricted document to examine such document, or to provide such person with a copy of such document; and

(5) leaving a restricted document unattended in an area other than one secured pursuant to sections B or D of this rule such that persons not authorized access to the document could readily gain access to it.

Such employees who knowingly perform any one or more of these acts set forth in section I shall be subject to disciplinary action, including dismissal, and such conduct will also constitute contempt of court. Attempts by persons who are not such employees to coerce or induce any employee of the Court to perform any one or more of these acts will also constitute contempt of court.

*Committee Note*: This rule is based on local General Rule 10, modified to omit matters and documents not before the Bankruptcy Court.

## RULE 402. MOTIONS

### A. Definitions

The following definitions shall apply in interpreting this rule:

(1) A "business day" shall include any day other than a Saturday, Sunday, or a legal holiday as defined by Fed.R.Civ.P. 6(a).

(2) The "date of presentment" shall refer to the day on which the motion is to be presented in open court according to the notice required by section B of this rule.

### B. Fixing the Date of Presentment; Notice of Presentment

The date of presentment contained in a notice of motion shall be within 14 calendar days of the service of the notice, unless applicable statutes or rules require a longer service period, in which case the date of presentment shall be within 7 calendar days of the expiration of the required notice period. The date of presentment may be modified by the court by standing order in counties other than Cook in order to accommodate the dates when the court sits.

### C. Selection of Dates for Hearings Required to Be Set by the Court

For any motion governed by Bankruptcy Rules 2002(a)(2) (use, sale, or lease of estate property out of the ordinary course of business), 2002(a)(3) (approval of settlement or compromise), 2002(a)(5) (conversion or dismissal of Chapter 7 and Chapter 11 cases), and 2002(a)(7) (compensation or reimbursement of expenses) counsel is not required to appear in court to obtain a date for presentment of the motion. Counsel may present such motions in the ordinary course, at any regular motion call, upon proof of service indicating that not less than the required 20-day notice has been provided in compliance with section B of this rule. If notice of dismissal is to be given by the Court then Rule 701 of these rules shall apply.

### D. Date of Filing of a Motion.

The date of filing of a motion will be the date on which the copy of the motion

was delivered in accordance with the provisions of section G. of this rule.

**E. Notice of Motion; Use of Overnight Service & Electronic Facsimile Transmission ("FAX"); Certificate of Service**

(1) Except in the case of an emergency, written notice of the intent to present a motion must be personally served at or before 4:00 o'clock p.m. of the *second* business day preceding the date of presentment. Where service of such notice is by mail, the notice shall be mailed at least five business days before the date of presentment. The written notice shall specify the motion to be presented, date of presentment, time of presentment, and the judge before whom the motion will be presented. Any motion not noticed in accord with this rule may be stricken by the court without notice. *Ex parte* motions and motions presented on stipulation may be presented without notice, directly to the judge's courtroom deputy without compliance with section G of this rule.

(2) For the purpose of this section, personal service shall include actual delivery within the time specified by this section by a service organization providing for delivery within a specified time (e.g., overnight service) or by facsimile transmission ("FAX").

(3) Each motion other than one filed *ex parte* shall be accompanied by a certificate of service indicating the date and manner of service and a statement that copies of documents required to be served by Fed.R.Bankr.P. 7005 (Fed.R.Civ.P. 5(a)) have been served.

(4) Where the service was by FAX, the certificate shall be accompanied by a copy of the transaction statement produced by the FAX machine. Such transaction statement shall include the date and time of service, the telephone number to which the documents were transmitted, and an acknowledgement from the receiving FAX machine that the transmission was received or, in the event that the receiving FAX machine did not produce the acknowledgement to the transmitting FAX machine, an affidavit or, if by an attorney, a certificate setting forth the date and time of service and telephone number to which documents were transmitted.

Electronic transmission of documents to the court is not permitted under this rule.

**F. Date of Request to Modify Stay under 11 U.S.C. §362**

The date of presentment is the date of "request" to modify stay under § 362 of the Bankruptcy Code, provided movant has complied with service requirements under Fed.R.Bankr.P. 9014 and other requirements under local Bankruptcy Rules.

**G. Copies of Motion to be Delivered to Clerk**

(1) The procedures set forth in this section shall apply to all cases and proceedings arising under or related to the Bankruptcy Code.

(2) The original and one copy of each motion shall be delivered to the clerk by 4:30 p.m. on the second business day preceding the date of presentment, regardless of the location of the offices of moving counsel, unless delivery is directed otherwise by the judge. Copies of all motions delivered to the clerk shall be accompanied by proof of service of a written notice of motion as provided by section E of this rule. The person receiving the copies shall record on the motion the date on which it was received. Motions delivered to the Court or filed without proof of service of written notice of motion may be stricken by the court without notice.

**H. (Reserved)**

**I. Disposition of Motion for Failure to Prosecute**

Should the moving party or its counsel deliver a motion to the clerk or chambers but fail to appear and prosecute the motion at the time and place noticed, the court may without notice deny the motion or strike the motion for want of prosecution. If an opposing party or its counsel appears in response to any notice of motion not presented, the court may also upon notice and motion by that party tax and assess reasonable and necessary expenses and fees incurred as a result of the failure to prosecute the motion.

**J. Copies of Motion Exhibits to Be Served**

Where the motion, by reference to specified exhibits makes those exhibits part of the motion, legible copies of the specified exhibit shall be appended to and served with the motion and notice, unless excused by court order.

**K. Motions for Discovery and Production; Statement of Efforts to Reach an Accord**

The court shall not hear motions for discovery under Fed.R.Civ.P. 26 through 37, and corresponding Fed.R.Bankr.P. with respect thereto, or pertaining to discovery permitted to be conducted under Rule 2004, unless the motion includes a statement that (1) after consultation in person or by telephone and good faith attempts to resolve differences, the parties are unable to reach an accord, or (2) moving counsel's attempts to engage in such personal consultation were unsuccessful due to no fault of counsel. Upon failure to comply with the provisions of this paragraph, the court may impose sanctions including striking the motion and other sanctions authorized under Fed.R.Civ-.P. 26 through 37 (Fed.R.Bankr.P. 7026 through 7037). Where the consultation occurred, this statement shall recite, in addition, the date, time, and place of such conference, and the names of all parties participating therein. Where counsel was unsuccessful in engaging in such consultation, the statement shall recite the efforts made by counsel to engage in consultation.

**L. Minute Order Forms and Orders to be Presented with Motions**

Each written motion shall be accompanied by a minute order form and proposed draft order.

(1) *Minute Order Forms:* The clerk shall provide, on request, blank minute order forms for use in complying with this rule. Only minute order forms provided by the clerk or reproductions of such forms will be accepted as complying with this rule.

(2) *Draft Orders:* Proposed draft orders shall have descriptive titles referring to the relief granted (e.g., “Order Allowing Debtor's Motion to Modify Stay”), and shall state the first day the date of presentment of the related motion in open court. If hearing or trial is set within the order, the title shall include the phrase “setting hearing” or “setting trial,” and identify the issue to be heard. In

lieu of a separate draft order, the moving party may submit a minute order form wherein the requirements for both minute orders and draft orders are complied with.

**M. Motions for Summary Judgment; Moving Party**

With each motion for summary judgment filed pursuant to Fed.R.Civ.P. 56 (Fed.R.Bankr.P. 7056), the moving party shall serve and file—

(1) any affidavits and other materials referred to in Fed.R.Civ.P. 56(e);

(2) a supporting memorandum of law; and

(3) a statement of material facts as to which the moving party contends there is no genuine issue and that entitles the moving party to judgment as a matter of law that includes:

(a) a description of the parties; and

(b) all facts supporting venue and jurisdiction in this Court.

The statement of facts referred to in (3) shall consist of short numbered paragraphs, including within each paragraph specific references to the affidavits, parts of the record, and other supporting materials relied upon to support the facts set forth in that paragraph. Failure to submit such a statement constitutes grounds for denial of the motion.

If additional material facts are submitted by the opposing party pursuant to section N of this rule, the moving party may submit a concise reply in the form prescribed in section N for a response. All material facts set forth in the statement filed pursuant to section N(3)(b) will be deemed admitted unless controverted by the statement of the moving party.

**N. Motions for Summary Judgment; Opposing Party**

Each party opposing a motion under Fed.R.Civ.P. 56 (Fed.R.Bankr.P. 7056) shall serve and file the following:

(1) any opposing affidavits and other materials referred to in Fed.R.Civ.P. 56(e);

(2) a supporting memorandum of law; and

(3) a concise response to the movant's statement of facts that shall contain:

(a) a response to each numbered paragraph in the moving party's statement, including, in the case of any disagreement, specific references to the affidavits, parts of the record, and other supporting materials relied upon; and

(b) a statement, consisting of short numbered paragraphs, of any additional facts that require the denial of summary judgment, including references to the affidavits, parts of the record, and other supporting materials relied upon. All material facts set forth in the statement required of the moving party will be deemed to be admitted unless controverted by the statement of the opposing party.

## O. Briefing Schedule; Copies and Service of Memoranda; Oral Argument

The court may set a briefing schedule. All memoranda shall be filed in duplicate, and copies shall be served upon all other parties entitled to notice. Proof of service shall be filed with the original copy. Oral arguments may be allowed in the court's discretion.

## P. Disposition of Motion Following Failure to File Supporting or Answering Memorandum

Failure to file a supporting or answering memorandum shall not be deemed to be a waiver of the motion or a withdrawal of opposition thereto, but the court on its own motion or that of a party may strike the motion or grant the same without further hearing. Failure to file a reply memorandum within the requisite time shall be deemed a waiver of the right to file.

## Q. Request for Decision; Request for Status Report

Any party may, on notice provided for by section E of this rule, call a motion that is fully briefed and ready for decision to the attention of the judge for decision.

Any party may also request the clerk of the Court or a deputy designated by the

clerk to report on the status of any motion on file for at least seven months without a ruling or on file and fully briefed for at least sixty days. Such requests will be in writing. On receipt of a request the clerk will promptly verify that the motion is pending and meets the criteria fixed by this section. If it is not pending or does not meet the criteria, the clerk will so notify the person making the request. If it is pending and does meet the criteria, the clerk will thereupon notify the judge before whom the motion is pending that a request has been received for a status report on the motion. The clerk will not disclose the name of the requesting party to the judge. If the judge provides information on the status of the motion, the clerk will notify all parties. If the judge does not provide any information within ten days of the clerk's notice to the judge, the clerk will notify all parties that the motion is pending and that it has been called to the judge's attention.

**R. Clerk's Processing of Motions and Applications**

Upon the tender of any motion or application, the clerk shall stamp all copies "Received" along with the date thereof and forward the original and copy of each of the papers to the judge to whom the motion or application is to be presented. Upon presentment of the motion or application to the judge in open court, the clerk shall stamp the original "Filed" along with the date thereof.

**S. Service of Copies of Orders**

Unless excused by the court, counsel for the party that drafted the order that is entered will serve copies of that order forthwith upon receipt thereof, conformed to the order actually entered. The conformed order shall be served on all entities of record whose rights or interests are directly and adversely affected thereby. If the draft order appended to the motion is entered without modification, there is no need to re-serve it. Service may be made by first class mail unless otherwise ordered.

*Committee Note*: Rule 402 is a modification of local General Rule 12.

Section B provides requirements for fixing the day of presentment and provides the motion may be dismissed *sua sponte* if the procedures are not

followed. *See* section I of local General Rule 12.

Section C of General Rule 12 is omitted in view of pleading requirements in Fed.R.Bankr.P. 9013. The procedures set out in Section C of this rule were initially set out in the General Order of 30 November 1989. They eliminate the need for counsel to appear twice, the first time merely to obtain a hearing date at the end of the requisite notice period.

Section E is based on section E of General Rule 12. The major differences are its reference to the *time* at which the motion is to be presented and the provision for striking motions not noticed in accordance with this rule.

Section F differs from General Rule 12 F. It fixes the date of "request" that triggers the first 30-day period for ruling under 11 U.S.C. § 362. Section F is intended to emphasize the general view that the thirty-day period to hold hearings on motions to modify stay starts when the request is made in open court. The general provision in Section A is not deemed sufficient to alert counsel to this application.

Section G is modified to put responsibility on the court rather than on the clerk to determine adequacy of notice of motions.

Section H is omitted as redundant in view of Rule 203(c). However, the section number is left in with the designation "Reserved" in order that the remaining sections conform to the section numbers in General Rule 12.

Section I is revised to provide sanctions for non-appearance in court by moving counsel or party.

Section J requires appended exhibits to be legible, a necessary emphasis in view of occasional illegible exhibits attached to motions. It also permits service of bulky exhibits to be excused by court order or limited to those parties in need of such copies, given the broad categories of parties required to be noticed.

Section L is modified to require information on draft orders to aid in docketing of the order and identification of the motion giving rise to the relief.

Sections M, N, O, and Q have been revised to track the revisions to sections M, N, O, and Q of General Rule 12.

Section R, previously designated S, sets out a procedure similar to that found in section F of local General Rule 12.

Section S, previously designated T, is added to ensure that all affected parties are given copies of the orders as entered.

## RULE 403. ROUTINE AND UNCONTESTED MOTIONS

### A. Routine Motion or Application Defined

A party presenting any one of the following, upon required notice, may designate it as a "routine motion" or "routine application," as the case may be:

(1) application for admission of counsel *pro hac vice* under Rule 602;

(2) motion to receive notices;

(3) motion to pay bond premium;

(4) motion to destroy books and records of a debtor;

(5) motion to extend time for filing complaints to determine dischargeability and objections to discharge;

(6) motion to extend by no more than 30 days the unexpired time to file an appearance, pleading, or response to a discovery request; provided that the motion states the next set court date and states that no court date will be affected by the extension;

(7) motion for leave to appear as an attorney or an additional attorney, or to substitute one attorney for another with the written consent of the client, except as to attorneys for a debtor-in-possession, trustee, or an official committee;

(8) motion to dismiss or withdraw all or any part of an adversary proceeding by agreement, which motion sets forth any consideration promised or received for the dismissal or withdrawal, and specify whether the dismissal or withdrawal is with or without prejudice, provided, however, that this subsection applies neither to adversary proceedings under 11 U.S.C. § 727 nor to any motion by a trustee that, if granted, would effectively abandon a cause of action;

(9) motion to avoid a lien pursuant to § 522(f) of the Bankruptcy Code;

(10) motion for leave to conduct examinations pursuant to Fed.R.Bankr.P. 2004, subject to local Bankruptcy Rule 402(k); and

(11) in cases under Chapter 13 of the Bankruptcy Code, on notice to the standing Trustee and all creditors:—

(a) motion to increase the payments by the debtor into the plan; and

(b) motion to extend the duration of the plan, without reduction of periodic payments, where the proposed extension does not result in a

duration of the plan beyond 60 months after the date of confirmation of the plan;

(12) motion by the Trustee or Debtor in Possession to abandon property of the estate pursuant to § 554 of the Bankruptcy Code and Fed.R.Bankr.P. 6007(a), provided the same be on notice to all creditors; and

(13) motions by the debtor:—

(a) to convert or dismiss under §§ 1208(b) or 1307(b) of the Bankruptcy Code; and

(b) to convert under §§ 706(a) or 1112(a) of the Bankruptcy Code.

**B. Identifying Routine Motions or Applications; Proposed Order; Ruling Without Hearing**

Each copy of a routine motion or routine application shall be marked as such and shall have appended to it a proposed order. The notice of a routine motion or routine application shall state in bold face type or capital letters that the appended proposed order may be entered by the judge without presentment in open court unless a party notifies the judge of an objection thereto pursuant to section C of this rule.

**C. Order of Calling Routine Motions or Applications; Request for Hearing**

Routine motions may be called by the courtroom Deputy at the beginning of the motion call before or when the judge takes the bench. If no party then requests a hearing, the judge may enter an order granting relief upon a routine motion or routine application in a form substantially similar to movant's or applicant's proposed order without presentation of the motion or application in open court and without a hearing. If a hearing is requested, the motion or application shall not be granted routinely, but shall be heard in open court at the date and time noticed.

**D. Uncontested Motion**

An "uncontested motion" is a motion upon required notice as to which all parties in interest entitled to notice have no objection to the relief sought by the movant, and the movant wishes the motion to be considered pursuant to this section.

**E. Identifying Uncontested Motions; Proposed Order**

Each copy of the uncontested motion shall be marked as such and shall have appended to it a proposed order and a certification of movant's counsel that each party-in-interest entitled to notice of the motion has no objection to the entry of the proposed order, or such order bears the signed approval of each such party or their counsel.

**F. Judge May Rule on Uncontested Motion Without Hearing**

The judge may enter an order granting relief upon an uncontested motion in a form substantially similar to the movant's proposed order without presentation of the motion in open court and without a hearing.

**G. Procedure Where Judge Declines to Grant Routine Motion or Application or Uncontested Motion**

Prior to the commencement of each motion call, the judge may post a list outside the courtroom of routine motions or applications and uncontested motions upon which ruling may be entered without hearing, if a hearing is not requested. Should the judge decline to grant a routine motion or application or an uncontested motion without presentation in open court or a hearing, the movant or applicant shall present the same in open court at the date and time noticed. If the movant or applicant fails to do so, the motion or application may be stricken or decided pursuant to Rule 402(i).

**H. Requirements of Notice Not Affected**

Nothing in this rule affects or excuses the requirements of notice otherwise applicable.

**I. Individual Judge May Adopt Other Practices**

Nothing in this rule shall require any judge to follow the procedures set forth herein.

*Committee Note*: This is a modification of a proposal from the Chicago Bar Association Bankruptcy Committee. Section H, while arguably redundant, may save the judges from dealing with the contention that applicable noticing requirements in Rules or statutes are affected or excused hereby.

## RULE 404. CONTINUANCES

No continuances on agreement of counsel are required to be allowed as a matter of course. Upon considering a motion for continuance, other court engagements of counsel may be considered but shall not be controlling.

*Committee Note*: This rule is based on local General Rule 14, modified for style and adopted to inform non-local counsel of local practices.

## RULE 405. FACSIMILE SIGNATURES

The judge may authorize the clerk to use a facsimile stamp of the judge's signature to affix to approved orders under the judge's direction. All orders signed by facsimile stamps shall bear the initials of the clerk or judge.

*Committee Note*: This rule formalizes present procedure used by the Bankruptcy Court, usually to enter large volumes of routine orders.

## RULE 406. DISCOVERY MATERIALS

### A. Definition of Discovery Materials

For the purpose of this rule, the term "discovery materials" shall include all interrogatories, requests for production and inspection, requests for admission, and responses and objections thereto made pursuant to Fed.R.Bankr.P. 7033, 7034, and 7036, (Fed.R.Civ.P. 33, 34, and 36) and notices of depositions issued and transcripts of depositions taken pursuant to Fed.R.Bankr.P. 7030 and 7031 (Fed.R.Civ.P. 30 and 31), and all discovery taken pursuant to Fed.R.Bankr.P. 2004.

### B. Discovery Materials Not to Be Filed Except By Order

(1) Except as provided by this rule, discovery materials shall not be filed with the clerk. The party serving the discovery materials or taking the depositions shall retain the original and be custodian of it. The judge, *sua sponte*, on notice of any party, or on application by a non-party, may require the filing of any discovery materials or may make provisions for a person to obtain a copy at their own expense.

(2) Where discovery materials are offered into evidence as an exhibit, the attorney producing them will retain them unless the judge orders them deposited with the clerk. Where the judge orders them deposited, they will be treated as exhibits subject to the provisions of Rule 414.

### C. Use of Depositions in Open Court

Whenever a deposition or portion thereof is to be read in court, counsel using the deposition shall provide the judge with a copy. If less than all of the deposition is used, counsel shall identify the portion used.

### D. Clerk to Open Depositions

Where depositions are to be filed with leave of the judge, the clerk, unless otherwise ordered, shall open and file them on receipt.

### E. Discovery by Agreement.

Parties may take and provide discovery by agreement of the parties without prior order of the judge or formal notices, subject to all notice requirements otherwise applicable to other parties. Nothing in this section excuses compliance with scheduling orders or applicable Fed.R.Bankr.P.

*Committee Note*: Sections A, B, and C are from Local General Rule 18. Section D encourages simplified informal discovery. Under section A, this local rule applies to discovery under Fed.R.Bankr.P. 2004.

## RULE 407. STRIKING OR DISMISSING FOR WANT OF PROSECUTION

An order striking a motion or dismissing an adversary proceeding for want of prosecution may be entered if counsel or a party *pro se* fails to respond to a call of an adversary proceeding or pending motion, whether set by summons or ordered by the judge.

*Committee Note*: This rule is based on local General Rule 21, modified to omit 21A so as to retain complete judicial responsibility for evaluating whether proceedings and motions should be stricken or dismissed for lack of prosecution, rather than imposing designated time limits. The necessary discretionary authority is supplemented but not duplicated by Fed.R.Bankr.P. 7016. Dismissal of a motion for failure to prosecute is established by Rule 402 I.

## RULE 408. SURETIES ON BONDS

### A. Security For Bonds

Except as otherwise provided by law, every court-ordered bond or similar undertaking must be secured by—

(1) the deposit of cash or obligations of the United States in the amount of the bond, or

(2) the undertaking or guaranty of a corporate surety holding a certificate of authority from the Secretary of the Treasury, or

(3) the undertaking or guaranty of two individual residents of the Northern District of Illinois.

### B. Affidavit of Justification

A person executing a bond as a surety pursuant to subdivision A(3) of this rule shall attach an affidavit of justification, giving the full name, occupation, residence, and business addresses and showing that person owns real or personal property within this district which, after excluding property exempt from execution and deducting that person's debts, liabilities, and other obligations (including those which may arise by virtue of that person's suretyship on other bonds or undertakings), is properly valued at no less than twice the amount of the bond.

### C. Restriction on Sureties

No member of the bar nor any officer or employee of this Court or of the Clerk's office shall act as surety in any action or proceeding in this Court.

### D. Bond Must Be Approved by Judge or Clerk

Every bond or similar undertaking must be approved by the judge, or by the clerk pursuant to Rule 409.

*Committee Note*: This rule is based on local General Rule 26. Section D is new. Section A distinguishes court-ordered bonds from trustee bonds which are provided under procedures supervised by the U.S. Trustee.

## RULE 409. APPROVAL OF BONDS BY THE CLERK

Except where another procedure is prescribed by law, the clerk may approve bonds without an order of the court if—

(1) the amount of the bond has been fixed by a judge, by court rule, or by statute, and

(2) the bond is secured either (a) by the deposit of cash or obligations of the United States, or (b) by the guaranty of a corporate surety holding a certification of authority from the Secretary of the Treasury, or (c) in adversary proceedings, by the guaranty of two individual residents of the Northern District of Illinois who satisfy Rule 408(b), and the written consent of all parties thereto is attached to the instrument and affidavits of justification.

*Committee Note*: This rule is based on local General Rule 27, modified to limit (2)(c) to adversary proceedings, because only in such proceedings can the clerk know from the record who "all parties" to the action are, unlike contested matters wherein the judge is in a better position to know who "all parties" are.

## RULE 410. SUPERSEDEAS

### A. Supersedeas where Judgment for a Sum Certain

Where the judgment is for a sum of money only, a supersedeas bond shall be in the amount of the judgment plus one year's interest at the rate provided in 28 U.S.C. § 1961, plus $500 to cover costs and, if eligible under Rule 409, may be approved by the clerk. The bond amount fixed hereunder is without prejudice to any party's right to seek timely judicial determination of a higher or lower amount.

### B. Condition of Bond; Satisfaction

The bond shall be conditioned for the satisfaction of the judgment in full, together with costs, interest, and damages for delay, if for any reason the appeal is dismissed or if the judgment is affirmed, and to satisfy in full such modification of the judgment and such costs, interest, and damages as the appellate court may adjudge and award.

*Committee Note*: This rule is based on local General Rule 28 as amended 28 December 1992.

## RULE 411. INVESTMENT OF FUNDS DEPOSITED IN THE REGISTRY ACCOUNT OF THE COURT

### A. Clerk to Maintain Registry Account

Pursuant to Fed.R.Bankr.P. 7067, the clerk of the Court shall maintain an interest bearing registry account. The conditions and terms of the agreement between the clerk of the Court and the bank maintaining the registry account shall be approved by and be subject to the supervision of the chief judge.

### B. Orders Requiring the Investment of Funds by the Clerk

All funds ordered deposited with the clerk pursuant to 28 U.S.C. § 2041 for deposit into the registry fund of the Court shall be deposited in the registry account specified in section A above, provided that, for cause shown, the court may direct the clerk to hold the funds deposited in some other form of interest bearing investment. Where the court so orders, the order shall specify (1) the reason or reasons for such alternative form of investment, (2) the amount to be invested, (3) the type of account or instrument in which the funds are to be invested, and (4) the term of the investment.

### C. Service of Orders Relating to the Investment of Funds

Whenever an order is entered directing that funds are to be deposited in the registry fund of the Court, it shall be the responsibility of counsel to cause a copy of such order to be served personally upon the clerk of the Court forthwith. Similar service is also required of any order directing the investment of funds in the name of the clerk of the Court where such funds are not deposited with the clerk.

### D. Time Period for Depositing Funds

The clerk of the Court shall take all reasonable steps to assure that the funds are invested promptly. For the purpose of this rule, "promptly" shall mean not more than 15 days following the service of the order as provided by section C of this rule or the deposit of funds with the clerk of the Court, whichever is later.

*Committee Note*: This rule is based on local General Rule 29, as amended. Parties should be aware that a fee schedule has been promulgated pursuant to 28 U.S.C. §1930 pursuant to which the clerk will retain a portion of any interest earned on

funds deposited in the Registry Account.

## RULE 412. Transfers and Remands of Cases

### A. Transfers

When an order is entered directing the clerk to transfer a matter to another district, the clerk shall delay the transfer of the case for fourteen days following the date of docketing the order of transfer, provided that, where the court directs that the case be transferred forthwith, no such delay shall be made. In effecting the transfer, the clerk shall transmit the original of all documents, including the order of transfer and a certified copy of the docket. The clerk shall note on the docket the date of the transfer.

### B. Remands

When an order is entered directing that a matter be remanded to a state court, the clerk shall delay mailing the certified copy of the remand order for fourteen days following the date of docketing the order of transfer, provided that, where the court directs that the copy be mailed forthwith, no such delay shall be made.

### C. Motions for Reconsideration of Transfer and Remand Orders; Extension of Time to File

The filing of a motion under Fed.R.Bankr.P. 9023 (Fed.R.Civ.P. 59 ) affecting an order of transfer or an order of remand referred to in sections A and B of this rule shall not serve to stop the transfer or remand of the case. However, on motion, the court may direct the clerk not to complete the transfer or remand process until a date certain or further order of court.

*Committee Note*: This rule is based on local General Rule 30.

## RULE 413. SATISFACTION OF JUDGMENT AND DECREES

The clerk shall enter the satisfaction of a judgment—

(1) upon the filing of a statement of satisfaction of the judgment executed and acknowledged by (a) the judgment-creditor, (b) by the creditor's legal representative or assignees, with evidence of their authority; or (c), if the filing is within two years of the entry of the judgment, by the creditor's attorney; or

(2) upon payment to the court of the amount of the judgment plus interest and costs, if the judgment is for money only; or

(3) if the judgment-creditor is the United States, upon the filing of a statement of satisfaction executed by the United States Attorney; or

(4) upon receipt of a certified copy of a statement of satisfaction entered in another district.

*Committee Note*: This rule is based on local General Rule 32.

## RULE 414. CUSTODY OF EXHIBITS; WITHDRAWAL OF FILED DOCUMENTS

### A. Retention of Exhibits

Original exhibits shall be retained by the attorney or *pro se* party producing them unless the court orders them deposited with the clerk.

### B. Exhibits Subject to Orders of Court

Original exhibits retained under section A and original transcripts ordered by any party but not filed are subject to orders of the judge. Upon request, parties shall make the exhibits and transcripts or copies thereof available to any other party to copy at its expense to enable that party to designate or prepare the record on appeal.

### C. Removal of Exhibits

Exhibits which have been deposited with the clerk shall be removed by the party responsible for them (1) if no appeal is taken, within ninety days after a final decision is rendered, or (2) within thirty days after the mandate of the reviewing court is filed. Parties failing to comply with this rule shall be notified by the clerk to remove their exhibits. Thirty days after such notice, the material shall be sold by the United States marshal or clerk of the Court at public or private sale, or otherwise disposed of as the judge directs. The net proceeds of any such sale shall be paid to the Treasurer of the United States.

### D. Records in Custody of Clerk

Pleadings and records filed and exhibits deposited with the clerk shall not be withdrawn from the custody of the Court except as provided by these rules or upon order of court.

### E. Receipt for Withdrawal of Exhibits

Parties withdrawing their exhibits from the Court's custody and persons withdrawing items pursuant to an order of court shall give the clerk a signed receipt identifying the material taken, which receipt shall be filed and docketed.

*Committee Note*: This rule is based on local General Rule 33, modified to apply to transcripts in section B.

## RULE 415. DEPOSITIONS AND OTHER SUBPOENAS TO COURT PERSONNEL AS WITNESSES

Except on motion and order, no party shall at any time serve a subpoena, or cause a subpoena to be served, to require the presence of or the production of documents by any of the following:

(a) judges and members of their staffs; and

(b) the clerk and members of the clerk's staff.

*Committee Note*: This rule is based on local General Rule 42, modified to apply only to persons in chambers and the Clerk's Office, omitting other parties protected by the General Rule.

## RULE 416. CLERK NOT TO ENTER DEFAULT JUDGMENTS

Unless otherwise directed by a judge, the clerk shall not prepare or sign default judgments in any adversary proceeding or contested matter under Fed.R.Bankr.P. 9021 (Fed.R.Civ.P. 58), or Fed.R.Bankr.P. 7055 (Fed.R.Civ.P. 55). Such judgments shall be presented to the judge for entry.

*Committee Note*: A bankruptcy judge rarely enters judgments that are only money judgments. Under Fed.R.Civ.P. 58 (Fed.R.Bankr.P. 9021), the court may direct the clerk not to enter default judgments. This rule relieves the clerk of a complex task and follows local practice since 1989.

## RULE 417. TAXATION OF COSTS

### A. Time for Filing Bill of Costs

Within thirty days of the entry of a judgment allowing costs, the prevailing party shall file a bill of costs with the clerk and serve a copy of the bill on each adverse party. If the bill of costs is not filed within the thirty days, costs other than those taxable pursuant to 28 U.S.C. § 1920(1), shall be deemed waived. The court may, on motion filed within the time provided for the filing of the bill of costs, extend the time for filing the bill.

### B. Costs of Stenographic Transcripts

Subject to the provisions of Fed.R.Civ.P. 54(d) (Fed.R.Bankr.P. 7054), the expense of any prevailing party in necessarily obtaining all or any part of a transcript for use in a case, for purposes of a new trial, or amended findings, or for appeal shall be taxable as costs against the adverse party. The costs of any transcript allowed to be taxed shall not exceed the regular copy rate as established by the Judicial Conference of the United States and in effect at the time the transcript or deposition was filed, unless some other rate was previously provided for by order of court. Except as otherwise ordered by the court, only the cost of the original transcript together with the cost of one copy each where needed by counsel and, for deposition transcripts, the copy provided to the court pursuant to Rule 406(c), shall be allowed.

### C. Bond Premiums

If costs are awarded by the court to any party, then the reasonable premiums or expenses paid on all bonds or other security given by the party in that suit shall be taxed as part of the costs of that party.

*Committee Note*: This rule is based on local General Rule 45, but removes the provisions in section B of that rule which allows the clerk's discretion in finding transcripts necessary.

## RULE 418. PUBLICATION OF DAILY CALL

Daily court calls in the Eastern Division of this District may be published in the *Chicago Daily Law Bulletin* or otherwise as the chief judge directs, and in the Western Division may be published in such publication if the same is designated by the judge senior in length of service regularly sitting in that Division. However, omission of a matter from the published call shall not excuse counsel or parties *pro se* from attendance before the court on the date set.

*Committee Note*: This rule codifies the current practice in the Eastern Division. It is not the regular practice to publish daily calls in the Western Division, so the rule simply recognizes the discretion of the responsible judge regularly sitting there.

**RULE 419. SECURITY FOR COSTS**

Upon good cause shown, the court may order the filing of a bond as security for costs. Except as ordered by the court, the bond will be secured in compliance with Rules 408 and 409. The bond shall be conditioned to secure the payment of all fees which the party filing it must pay by law to the clerk, United States marshal, or other officer of the Court and all costs of the action which that party may be directed to pay to any other party.

*Committee Note*: This rule is based on local Civil Rule 2 as amended 28 December 1992.

## RULE 420. REMOVAL OF CASES FROM STATE COURTS

### A. Removal Notice to Be Filed With Clerk of This Court

A defendant desiring pursuant to 28 U.S.C. § 1452 to remove to this Court a civil action or proceeding from a state court in this District shall file all required papers with the clerk of this Court.

### B. Copy of Record to Be Filed With Clerk in 20 Days

Within twenty days after filing the petition for removal, the petitioner shall file with the clerk a copy of all records and proceedings had in the state court.

*Committee Note*: Detailed requirements for removal papers are otherwise provided by statute and applicable rules. Section A adopts the ruling in *In Re Gianakas*, 56 B.R. 747 (N.D. Ill. 1985), and interprets otherwise obscure references in Fed.R.Bankr.P. 9027(a)(1) and 9001(3) to provide clearly for filing of removal papers with the clerk of the Bankruptcy Court (see definition of "clerk," Rule 100) instead of with the clerk of the District Court. This procedure avoids necessity for that clerk to transfer papers to the clerk of this Court which serves a unit of the District Court. Section B implements 28 U.S.C. § 1447(b) and Fed.R.Bankr.P. 9027(e)(2).

## RULE 421. COUNSEL FEES ON TAKING DEPOSITIONS AT DISTANT PLACES

When a proposed deposition upon oral examinations, including a deposition before action or pending appeal or an examination under Fed.R.Bankr.P. 2004, is sought to be taken at a place more than 150 miles from the courthouse, the court may provide in the order that, prior to the examination, the applicant pay necessary and reasonable expenses and counsel fees of the attendance at the place where the deposition is to be taken of one attorney for each adverse party. The amounts so paid shall be a taxable cost in the event that the applicant recovers costs of the action or proceeding.

*Committee Note*: This rule is based on local Civil Rule 4A. Section B of that rule is not applicable in bankruptcy.

## RULE 422. REQUEST TO BE ADDED TO NOTICE LIST

### A. Notice, Motion, and Draft Order

Parties desiring to be added to the notice list under Fed.R.Bankr.P. 2002(m) shall submit, together with the notice and motion, a draft order entitled "Order Adding Party to the Notice List." The draft order shall specify the name of the party or individual attorney(s) to be added as well as the mailing address to be used.

### B. Content of Motion

The motion for such relief shall allege facts justifying the added expense to parties that is caused by expanding the notice list.

*Committee Note*: This rule gives the clerk and others a format that is easily recognized and acted upon.

## RULE 423. PRETRIAL PROCEDURE[a]

~~**A. Application of Provisions of Fed.R.Bankr.P. 7026 (a)(1)**~~

~~Unless otherwise ordered by the court all bankruptcy contested matters and adversary proceedings are exempted from—~~

~~(1) the provisions set out in Fed.R.Bankr.P. 7026(a)(1) (F.R.Civ.P. 26(a)(1)),~~

~~(2) the requirements of Fed.R.Bankr.P. 7026(a)(4) (F.R.Civ.P. 26(a)(4)) that disclosures under paragraphs (1) through (3) of Fed.R.Bankr.P. 7026(a) (F.R.Civ.P. 26(a)) be filed with the court,~~

~~(3) the timing and sequence of discovery set out in Fed.R.Bankr.P. 7026(d) (F.R.Civ.P. 26(d)), and~~

~~(4) the requirement for a meeting of the parties set out in Fed.R.Bankr.P. 7026(f) (F.R.Civ.P. 26(f)).~~

~~**B. Disclosure of Insurance Agreements**~~

~~A party may obtain for inspection and copying as under Fed.R.Bankr.P. 7034 (Fed.R.Civ.P. 34) any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.~~

~~*Committee Note:* This parallels in part the amendment to General Rule 5.00 adopted by the District Court in its General Order of 21 December 1993. Bankruptcy Rules 7026 and 9014 adopt Fed.R.Civ.P. 26, so all of that rule would apply in bankruptcy cases unless an exception is adopted. Exceptions must be adopted expressly as bankruptcy rules since changes to the other local rules of~~

[a]Effective December 1, 2000, amendments to Rule 26 of the Federal Rules of Civil Procedure, made applicable to adversary proceedings by Federal Rule of Bankruptcy Procedure 7026 and to contested matters by Federal Rule of Bankruptcy Procedure 9014, abrogated Local Bankruptcy Rule 423. The amendments eliminate the power of local courts to modify the provisions of Rule 26 by local rule. Rule 26 as amended does provide that a court, in appropriate cases, may modify certain requirements of the rule. *See* Fed. R. Civ. P. 26.

~~the District do not automatically apply to the Bankruptcy Rules. (*See* Rule 10 C of these rules.)~~

~~Section B is needed as the provision for inspecting insurance agreements is contained in the automatic disclosure sections. Failure to make such a provision would result in those agreements not being discoverable if, as in A, a court opts out of the automatic discovery provisions of F.R.Civ.P. 26(a)(1).~~

**RULE 424. Proof of Service of Papers**

Unless another method is expressly required by these rules or by applicable law, an attorney may prove service of papers by certificate, and other persons may prove service of papers by affidavit or by other proof satisfactory to the court.

*Committee Note*: This rule is based on local Civil Rule 7, modified to make clear that this rule is not intended to negate requirements of any applicable statutes or rules.

## RULE 425. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

The judge may require from any party in interest, before or after the announcement of its decision on a matter, the filing and service of proposed findings of fact and conclusions of law, for the assistance of the court.

*Committee Note*: This rule is based on local Civil Rule 13. This rule will give notice to the bar of the possible requirement for findings and conclusions in any appropriate litigation, whether or not part of adversary proceedings. While Fed.R.Bankr.P. 9014 expressly authorizes proposed findings and conclusions in adversary proceedings, most evidentiary hearings arise from contested matters outside of adversary cases.

## RULE 426. JURY TRIALS BEFORE BANKRUPTCY JUDGES

### A. Effective Date

This rule applies and is effective as to cases commenced under Title 11 of the United States Code on or after October 22, 1994, and as to civil matters and proceedings related to or arising in such cases.

### B. Designation of Bankruptcy Judges to Conduct Jury Trials

Each bankruptcy judge appointed or designated to hold court in this District is specially desginated to conduct jury trials pursuant to 28 U.S.C. § 157(e). The District Court may for good cause withdraw the designation of any bankruptcy judge. Such withdrawal shall be in the form of a general order.

### C. Consent

Any bankruptcy judge designated to conduct a jury trial may conduct such a trial in any case, proceeding, or matter that may be heard under 28 U.S.C. § 157, within which the right to a jury trial exists, only upon the consent of all parties. Any time a party is added, the consent of each party must be of record, either in writing or recorded in open court. The filing of a consent does not preclude a party from challenging whether the demand was timely filed or whether the right to a jury trial exists.

### D. Applicability of Federal Rules of Civil Procedure

F.R. Civ.P. 38, 39, and 47-51 and F.R. Civ.P. 81(c) insofar as it applies to jury trials, shall apply in cases and proceedings within which the right to a jury trial exists, except that the filing of a demand made under F.R. Civ.P. 38(b) shall be accomplished in accordance with F.R. Bank.P. 5005 rather than F.R.Civ.P. 5(b).

### E. Applicability of General Rules Regarding Jury Procedures

General Rules 1.30, 1.31, and 1.32 shall apply to jury trials conducted by bankruptcy judges, provided that the terms "judge of this Court," "trial judge," "the court," and "the presiding judge" in sections 1.30D, 1.30E, 1.31, and 1.32, respectively, shall mean the bankruptcy judge conducting the jury trial. The terms "chief judge" and "clerk" as used in General

*Committee Note*

**Section A:** This section implements new § 157(e) of Title 28, added by § 112 of the *Bankruptcy Reform Act of 1994*. Section 112 of the *Act* provides:

SEC. 112 AUTHORITY OF BANKRUPTCY JUDGES TO CONDUCT JURY TRIALS IN CIVIL PROCEEDINGS.

Section 157 of title 28, United States Code, is amended by adding at the end the following:

> (e) If the right to a jury trial applies in a proceeding that may be heard under this section by a bankruptcy judge, the bankruptcy judge may conduct the jury trial if specially designated to exercise such jurisdiction by the district court and with the express consent of all parties.

The effective date established by section A follows the effective date of § 112 as provided in § 702(a) of that *Act*.

**Section B:** This section provides that each bankruptcy judge "*appointed* or *designated* to hold court in this District is specially designated to hold jury trials" on consent of the parties (*emphasis added*). This will include those bankruptcy judges currently sitting who are appointed to bankruptcy judgeships authorized for the District as well as any bankruptcy judges who will subsequently be appointed to such judgeships. It also covers those bankruptcy judges from other district who are from time to time designated to hold court in this District.

Section B also provides that the District Court may "for good cause withdraw the designation of any bankruptcy judge" by issuing a general order to that effect.

**Section C:** The Act did not specify whether "express consent" of the parties to a jury trial before the bankruptcy judge must be in writing. The requirement that parties consent to the bankruptcy judge conducting the jury trial is clearly analogous to the requirement for consent of parties in order for a magistrate judge to conduct civil trials pursuant to 28 U.S.C. § 636(c). With regard to such consents the Seventh Circuit held in *Mark I, Inc., v. Cyril Gruber*, 38 F.3d 369 (7th Cir. 1994) that "we do not insist that the consent be in writing, but it must be on the record and unequivocal." In the same case the Court also noted that "[u]nless each litigant expressly assents, the case must be tried by a district judge."

In civil cases the identity of the "parties" required to consent is a relatively straightforward matter. In bankruptcy cases in which the bankruptcy judge may conduct a jury trial on consent, defining the "parties" whose consent is required may be less obvious. The *Act* requires

the "express consent of all parties" in a proceeding "where the right to a jury trial right applies." These will usually consist of adversary cases filed under F.R. Bankr.P. 7001 wherein the parties are expressly identified in the complaint and summons. However, this rule could apply as well in the event a jury trial right applies to a contested matter which originates on motion and thereupon is treated quite similarly to an adversary proceeding under F.R.Bankr.P. 9014. The "parties" to such contested matters are the parties who file pleadings in order to participate therein, even though no formal complaint and summons is required.

Jury trials in "related" proceedings should not proceed before a bankruptcy judge unless the parties to those proceedings also consent to a trial to judment pursuant to 28 U.S.C. § 157(c)(2). Without such consent, the bankruptcy judge could hold the trial and take the jury's verdict, but would only be able to recommend that a district judge render final judgment and pass on post-judgment motions. The awkwardness of such procedure is apparent. If parties wish a district judge to enter judgment in a "related" proceeding, the jury trial should be held before a district judge.

The final sentence of the section provides that even after filing a consent a party can challenge the right to a jury trial either on the grounds that the demand was not timely or on the grounds that there is no right to such a trial in the issue at hand.

**Section D:** This section is intended to identify those Federal Rules of Civil Procedure applicable to jury trials covered by this Rule. It also makes clear that jury demands are to be filed in accordance with F.R.Bankr.P. 5005 rather than F.R.Civ.P. 5(b).

**Section E:** There is no need to establish a new administrative structure to obtain prospective jurors. The few civil jury trials likely to result under the *Act* are best administered under existing District Court procedures and rules. As there should be no differences in those requirements from civil jury trials held before other judicial officers of the District Court, local General Rules 1.30, 1.31, and 1.32 should apply to jury trials before bankruptcy judges. The language of the section C makes clear that the chief judge and clerk referred to in the underlying General Rules are, respectively, the chief judge and clerk of the District Court, but that the various references to the trial court are to be interpreted as referring to the bankruptcy judge.

**General:** This rule does not follow the practice before magistrate judges of requiring the clerk of Court to mail notice of right to consent to parties in all cases. (*See* Local General Rule

1.72) The occasions for jury trials are so rare in bankruptcy that such burden on the bankruptcy clerk is not warranted. Furthermore, while such notice is required by 28 U.S.C.§636(c)(2), it is not required by 28 U.S.C.§ 157(e).

**RULE 427. RESERVED**

## RULE 428. PRETRIAL ORDERS

Unless otherwise ordered by the court, all contested matters and adversary proceedings are exempted from the requirements of Fed.R.Bankr.P. 7016 (F.R.Civ.P. 16). If the court orders Fed.R.Bankr.P. 7016 (F.R.Civ.P. 16) to apply, it is authorized to—

(1) excempt adversary proceedings and contested matters from the scheduling orders required by Fed.R.Bankr.P. 7016 (F.R.Civ.P. 16); and

(2) modify any such scheduling orders that may have been entered.

*Committee Note*: Fed.R.Bankr.P. 7016 applies Fed.R.Civ.P. 16 to all adversary proceedings and may be applied by a judge to contested proceedings pursuant to Fed.R.Bankr.P. 9014. Fed.R.Bankr.P. 7016 requires scheduling orders, unless local court rules permit otherwise. It also requires strict adherence to such orders once entered unless extensions are authorized by local rule. This local Bankruptcy Rule allows the appropriate flexibility to adjust to changing circumstances presented by the parties.

The flexibility contemplated by this rule has been followed in practice. All judges are generally current in their matters, so such flexibility is an aid to efficiency, not a drag on productivity.

Rule 423 exempts adversary proceedings and contested matters from Fed.R.Bankr.P. 7026(a)(1), (a)(4), (d), and (f).

**RULE 429. (Reserved)**

## RULE 430. RESERVED

## RULE 431. RESERVED

## RULE 432. TRANSMITTAL TO THE DISTRICT COURT OF PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW IN NON-CORE PROCEEDINGS

The clerk shall forthwith transmit to the District Court the proposed findings of fact and conclusions of law filed pursuant to Fed.R.Bankr.P. 9033, upon the expiration of time for filing objections and any response thereto. After transmission of proposed findings and conclusions to the District Court, no filings, except motions pursuant to Fed.R.Bankr.P. 9033(c), may be made in the Bankruptcy Court with respect to the non-core proceeding until after dispositive ruling by the District Court.

*Committee Note*: Fed.R.Bankr.P. 9033 provides the procedure for objecting to and for review by the district court of findings and conclusions recommended by the bankruptcy judge in non-core proceedings. However, that rule does not specify how or when the proposed findings and conclusions are to be transmitted to the district court. This rule will clearly specify the procedure.

Advisory Committee Notes for the Fed.R.Bankr.P. 9033 state that it is modeled on Fed.R.Civ.P. 72 . Rule 72 sets forth similar procedures for magistrate judges when hearing dispositive motions and prisoner petitions. Currently there is no comparable local rule.

This rule is not intended to resolve the question as to whether the bankruptcy judge or district judge should determine post-trial motions for reconsideration or to vacate the proposed findings and conclusions, this being an unresolved legal issue.

**RULE 433. AGREED ORDERS TO EXTEND TIME UNDER §§ 522, 523, or 727.**

A judge will accept agreed orders to extend time for filings under §§ 522, 523, or 727 of the Bankruptcy Code, if such orders clearly set forth the relief sought, including the extended date, and are executed by counsel for the debtor or the debtor if *pro se*. The court will enter such orders in chambers without necessity for notice of motion, court appearance, motion slip, extra copy, or lodging of materials through the Clerk's Office.

*Committee Note*: This rule will render unnecessary any motions, notices, or court appearances for the indicated agreed orders. Since no other parties are entitled to notice of the respective orders referred to here, this procedure will simplify practice and reduce expense.

## RULE 500. TRUSTEE'S DEPOSIT OF FUNDS IN INTEREST BEARING ACCOUNTS

### A. Trustee to Maintain Separate Interest-bearing Accounts for Estates over $5,000

The trustee in each Chapter 7 case under the Bankruptcy Code shall deposit all money of the estate in one or more segregated interest-bearing accounts in accordance with § 345 of the Bankruptcy Code, whenever the sum shall total or exceed $5,000.

### B. Rule Not to Limit Authority of Judge

Nothing in this rule is intended to limit a judge's authority to enter orders in a particular case affecting the investments by a trustee under any chapter of the Bankruptcy Code.

*Committee Note*: This rule is based on local Interim Bankruptcy Rule 2. While the judges believe that trustees in Chapter 7 have a duty to invest prudently, the statutes and Fed.R.Bankr.P. do not so specify. This rule, previously adopted as an Interim Rule, makes that duty clear to the Chapter 7 trustees. Trustees under other chapters generally have duties incompatible with investment of funds. However, in some circumstances, even those trustees should invest estate funds, and that is the reason for the second paragraph. Nothing in this rule bars a judge from ordering the investment of or the trustee from investing sums of less than $5,000.

## RULE 501. DEFERRAL OF FILING FEES DUE FROM TRUSTEE

Upon the filing with the clerk by any trustee in any adversary proceeding of a certificate that the estate lacks any funds with which to pay requisite filing fees, the payment of such filing fees shall be deferred by the clerk without order of the judge, and the clerk shall enter such deferral upon the docket. The trustee shall pay such deferred fees from the estate before the case is closed, should the estate then have assets available to pay such fees.

*Committee Note*: This is a new rule. It is intended to eliminate the necessity of motions and court appearance by a trustee who must bring an action but lacks liquid assets to pay the required filing fee.

## RULE 502. NOTICE REQUIREMENTS FOR DISMISSAL OF PROCEEDINGS TO DENY OR REVOKE DISCHARGES

No adversary proceeding objecting to or seeking to revoke a debtor's discharge under §§ 727, 1141, 1228, or 1328 of the Bankruptcy Code shall be dismissed except on motion and hearing after a 20-day notice to the Debtor, the United States Trustee, the trustee, and all creditors and other parties of record. The motion shall either (1) state that no entity has promised, has given, or has received directly or indirectly any consideration to obtain or allow such dismissal; or, (2) shall specifically describe any such consideration promised, given, or received. In addition to normal notice requirements, this notice must include a statement to the effect that any creditors or the trustee who wish to adopt and prosecute the adversary proceeding in question shall seek leave to do so at or before the hearing on motion to dismiss. Nothing contained herein is intended to restrict the discretion of the judge to limit such notice to the Debtor, the United States trustee, the trustee and such creditors or other parties as the judge may designate, or to shorten the notice period for cause shown.

*Committee Note*: Proceedings to bar or revoke discharge are brought for benefit of the estate and all creditors. If a party in interest withholds its own action in reliance upon a timely action by another, it should have an opportunity on notice to take up the burden of litigation if the initial party drops the matter for any reason. The notice of consideration given for dropping the case is appropriate, so the court and parties can determine whether such consideration belongs to the estate; e.g., an action brought to bar discharge for hiding of estate assets should not result in the hidden assets going to the party bringing the action instead of to the estate. Under 11 U.S.C. § 506(c), benefits to the estate from such an action can be rewarded appropriately.

## RULE 503. AUTHORIZATION TO DISBURSE SMALL EXPENSES WITHOUT PRIOR ORDER

Until the filing of the trustee's final report and account in any Chapter 7 case pending in this district, the trustee is authorized to disburse up to a total of $500 for actual and necessary expenses without any prior order of the court. If any funds are disbursed without prior court order, the trustee shall account for such disbursements in the trustee's final report. This rule does not abrogate the discretion of each judge by order in any proceedings to modify the dollar amount of expenses authorized for disbursement under this rule.

*Committee Note*: This was promulgated as a general order on behalf of all bankruptcy judges on 20 November 1992. The purpose is to permit, subject to subsequent review, the prepayment of small expenses under 11 U.S.C. § 330(a)(2) so that it is unnecessary to come before the court on motions and notice for small routine expenses. All disbursements are subject to review at the end of the case. The last sentence in intended to make clear that this rule does not prevent the judges from exercising their present authority to amend the dollar amount in the future without necessity for a rule change.

## RULE 600. APPEARANCE OF ATTORNEYS

### A. Admission to District Court Required

Except as provided in Rules 601 and 602, an attorney appearing before this Court must be admitted to practice before the District Court.

### B. Circumstances Under Which Trial Bar Membership Required

An attorney who is to participate as lead counsel or alone in testimonial proceedings must be a member of the trial bar of the District Court. For cause shown, a judge may excuse the trial bar requirement in specified cases, proceedings, or matters.

### C. Exemption for Certain Officers Appearing in Their Official Capacity

The following officers appearing in their official capacity shall be entitled to appear in all matters before the court without admission to the trial bar of this Court: the Attorney General of the United States, the United States Attorney for the Northern District of Illinois, the attorney general or other highest legal officer of any state, and the state's attorney of any county in the State of Illinois. This exception to membership in the trial bar shall apply to such persons as hold the above-described offices during their terms of office, not to their assistants.

*Committee Note*: This is in lieu of local General Rule 3.10. The same practice standards applicable to attorneys before the District Court should continue to be applicable to attorneys appearing before this Court.

## RULE 601. REPRESENTATION BY SUPERVISED SENIOR LAW STUDENTS

A student in a law school who has been certified by the Administrative Director of Illinois Courts to render services in accordance with Rule 711 of the Rules of the Illinois Supreme Court may perform such services in this Court under like conditions and under the supervision of a member of the trial bar of this Court. In addition to the agencies specified in paragraph (b) of Illinois Supreme Court Rule 711, the law school student may render such services with the United States Attorney for this District, or the United States trustee, or the legal staff of any agency of the United States government.

*Committee Note*: This rule is based on local General Rule 3.11, previously adopted as a rule of this Court on 6 May 1986.

## RULE 602. APPEARANCE BY ATTORNEYS NOT MEMBERS OF THE BAR *(Pro Hac Vice)*

A member in good standing of the bar of the highest court of any state or of any United States District Court may, upon motion, be permitted to argue or try a particular case in whole or in part. A petition for admission under this Rule shall be on a form approved by the Executive Committee. The Clerk shall provide copies of such form on request.

The fee for admission under this Rule is $100.00.[a] The fee shall be paid to the Clerk of the District Court who shall deposit it in the District Court Fund.

A petition for admission under this Rule may be presented by the petitioner. No admission under this Rule shall become effective until such time as the fee has been paid.

*Committee Note:* This rule is based on local General Rule 3.12

[a]The District Court's revised fee schedule, dated February 1, 2001, provides that the *Pro Hac Vice* admission fee for cases filed prior to February 1, 2001 is $100 and that the *Pro Hac Vice* fee for cases filed on or after February 1, 2001 is $50.

## RULE 603. DESIGNATION OF LOCAL COUNSEL FOR SERVICE

### A. Designation of Local Counsel

Unless excused by order for cause shown, an attorney primarily responsible for matters before the court ("lead counsel"), but not having an office within this District may not appear before this Court in any contested matter or adversary proceeding unless such lead counsel first designates a member of the bar of the District Court having an office within this District upon whom service may be made. The attorney so designated shall only file a separate "Appearance as Local Counsel" if that attorney is not to participate in the case beyond the extent required of an attorney designated pursuant to this rule.

### B. Penalties for Failing to Designate Local Counsel

Where the nonresident lead counsel files pleadings without the required designation of local counsel, the clerk shall process them as if the designation were filed. If that lead counsel fails to file the required designation of local counsel, the pleadings filed may be stricken by the court without notice.

### C. Duties of Local Counsel

An attorney designated as local counsel pursuant to this rule shall be responsible for receiving service of notices, pleadings and other documents and promptly notifying the designating attorney of their receipt and contents. The local counsel may also appear in the place of the lead counsel. This rule does not require the local counsel to take responsibility for any substantive aspects of the litigation or to sign any pleading, motion, or other paper.

*Committee Note*: This rule is based on local General Rule 3.13 which was adopted on 6 May 1986 as a rule of this Court and amended by general order of 15 February 1988. The modifications to section A are intended for clarification, to require filing of an appearance by local counsel for docket and notice purposes, and to allow waiver of the rule in appropriate situations in view of the nationwide jurisdiction of the Bankruptcy Court and the need to recognize economic burdens in relatively small matters. Section B is modified to eliminate the duty of the

clerk and replace it with the possibility of action by the court.

## RULE 604. APPEARANCES

### A. Appearance Forms; Appearances by Firms Prohibited

Appearances filed when required by Fed.R.Bankr.P. 9010(b) shall be filed on forms prescribed by the District Court and signed by individual attorneys appearing, not by the firm name.

### B. Appearance of Attorney for Debtor; Adversary Proceedings

Counsel who represents the debtor upon filing of a petition in bankruptcy is deemed to appear as attorney of record on behalf of debtor for all purposes in any contested or other proceeding concerning debtor in that bankruptcy case, but is not thereby deemed to appear in any adversary proceeding filed against the debtor.

### C. Appearance by United States Attorney or United States Trustee

No appearance form need be filed by the United States Attorney or the United States Trustee or any of their assistants when appearing in the performance of their duties.

*Committee Note*: Section A designates the appearance form to use when a form is required. Section B is new. It is in lieu of local General Rule 3.14, which was adopted as a rule of this Court on 6 May 1986. The change makes clear that a bankruptcy lawyer has professional responsibility for his client in all matters in the bankruptcy case unless given leave to withdraw, but treats the adversary proceeding as a separate case in which other counsel may appear and in which the appearance by debtor's counsel is not automatic. Section C tracks the provisions of local General Rule 3.14 B with respect to the U.S. Attorney and makes similar provisions with respect to the U.S. Trustee.

## RULE 605. WITHDRAWAL, ADDITION, AND SUBSTITUTION OF COUNSEL

The attorney of record may not withdraw, nor may any other attorney file an appearance on behalf of the same party or as a substitute for the attorney of record, without first obtaining leave of court pursuant to Rule 402.

*Committee Note*: This rule is based on local General Rule 3.15.

## RULE 606. COURT APPOINTED COUNSEL

In proceedings where appointment of counsel by the court in *pro bono* cases is authorized by law and deemed appropriate, reimbursement of expenses from the District Court Fund in a manner similar to that provided by the *Regulations Governing the Prepayment & Reimbursement of Expenses of Court Appointed Counsel in Pro Bono Cases* may be recommended by a judge acting under this rule within limits and pursuant to procedures provided by such *Regulations*. Such recommendations will be determined by the chief judge of the District Court.

*Committee Note:* District Court General Rule 11 covers the filing of *in forma pauperis* applications, but was not adopted for this Court as part of the general order of the District and Bankruptcy Court of 6 May 1986.

The bankruptcy judges only very rarely face the need to appoint counsel to serve *pro bono;* for example, debtors without funds who are incarcerated may need counsel to press claims or defenses that appear to have substance. In such situations, it would be helpful in obtaining the help of competent counsel if the court could indicate that their expenses might be reimbursed on the same basis as counsel appointed *pro bono* in civil cases in the District Court. While the proposal cites the *Regulations* as guiding reimbursement, it differs from the system used in the District Court in that any approval of reimbursements must be recommended by the appointing bankruptcy judge and approved by the chief judge of the District Court.

## RULE 607. APPLICATIONS FOR COMPENSATION AND REIMBURSEMENT FOR PROFESSIONAL SERVICES

### A. Applications

In addition to complying with other applicable law and any special requirements ordered by a judge, unless excused, each application for interim or final compensation for services performed and reimbursement of expenses incurred by a professional person employed in a Chapter 11 case shall begin with a completed and signed cover sheet in the form appended to and made part of this rule, and shall also include both a narrative summary and a detailed statement of the applicant's services for which compensation is sought. The narrative summary shall conclude with a statement as to whether the requested fees and expenses are sought to be merely allowed or both allowed and paid, and if the latter, shall state the source of the proposed payment.

### B. Narrative Summary

The narrative summary shall set forth the following for the period of time covered by the application:

(1) a summary list of all principal activities of the applicant giving the total compensation applied for in connection with each such activity;

(2) a separate description of each of the applicant's principal activities including details as to individual tasks performed within such activity. The description of each task and activity and description of results sought to be achieved and those actually achieved should be sufficient to demonstrate to the court that each task and activity is compensable in the amount sought. One such activity to be included for separate description in every narrative summary is a statement of all time and total compensation sought in that application for preparation of the current or any prior application by that applicant for compensation;

(3) the name and position (partner, associate, paralegal, etc.) of each person who performed work on each task and activity, and the approximate hours worked and total compensation sought therefor as to each person, and for their

work on each such separate task and activity;

(4) the hourly rate for each professional and paraprofessional for whom compensation is requested, with the total number of hours expended by each person and the total compensation sought for each;

(5) if interim fees have previously been requested or allowed to the applicant, then a statement as to compensation previously sought and the amount allowed for each separate activity for which the present application seeks additional compensation;

(6) the total amount of expenses for which reimbursement is sought, supported by a statement of those expenses, including what if any additional charges are added to the actual cost to applicant; and

(7) if the detailed statement of services shows research performed or a memorandum of law prepared, there should be included in the narrative summary a list of the issues researched. If conferences are reported in the detailed statement, and not otherwise explained therein, there should be included in the narrative summary a brief description of the purposes of those conferences, together with identification of the persons who participated, and the parties each represented.

**C. Detailed Statement of Services**

The applicant's detailed time records may constitute the detailed statement required by Fed.R.Bankr.P. 2016(a) to be filed in support of an application, provided, however, that such statement shall be divided by task and activity to match those set forth in the narrative description. Each time entry shall state—

(1) the date the work was performed,

(2) the name of the person performing the work,

(3) a brief statement of the nature of the work, and

(4) the time expended in increments of tenth of an hour.

**D. Privileged Information and Work Product**

Should compliance with this rule require disclosure of privileged information or work product, then, upon leave of the judge on motion with proper notice, such information may be separately tendered for filing *in camera*, unless to do so would constitute an *ex parte* communication concerning matters before the judge. If leave is given to file *in camera*, such materials may be omitted from the copies served on other parties and their counsel.

**E. Failure to Comply**

Failure to comply with any part of this rule may result in reduction of fees and expenses allowed. If a revised application is made necessary by any failure to comply with provisions of this rule, compensation may be denied or reduced for preparation of the revision.

**F. Other Applications, Modifications, or Waivers**

A judge may exercise discretion to apply this rule to fee petitions filed in Chapter 7, Chapter 9, Chapter 12, and Chapter 13 cases, or may excuse or modify compliance herewith without notice or on motion of any party in interest. A judge may also excuse or modify any of the particular requirements of this rule.

*Committee Note*: This rule codifies requirements set forth in published precedents generally followed for several years by some judges in this District. In this codified form, it will be useful guidance to counsel who do not usually practice before the bankruptcy judges in this District.

Judges who choose not to follow this format, and those who do not need this format for small applications, may partially or wholly excuse compliance under Rule 607(f).

**UNITED STATES BANKRUPTCY COURT**
**NORTHERN DISTRICT OF ILLINOIS**
**EASTERN DIVISION**

| | | |
|---|---|---|
| In re | ) | |
| | ) | |
| | ) | Bankruptcy No. _____ |
| | ) | |
| Debtor(s). | ) | Chapter _____ |

**COVER SHEET FOR APPLICATION FOR PROFESSIONAL COMPENSATION**
(Appendix to Rule 607)

Name of Applicant: _____

Authorized to Provide
Professional Services to: _____

Date of Order Authorizing Employment: _____

Period for Which
Compensation is Sought: From _____ ,19__ through _____ , 19__

Amount of Fees Sought: $_____

Amount of Expense
Reimbursement Sought: $_____

This is an: Interim Application ___ Final Application ___

If this is *not* the first application filed herein by this professional, disclose as to all prior fee applications:

| Period | Total Requested (Fees and | Total | Any Amount Ordered |
|---|---|---|---|
| Date Filed | | | |

Covered

Expenses

Allowed

Withheld

| | | | | |
|---|---|---|---|---|
| _____ | _____ | $_____ | $_____ | $_____ |
| _____ | _____ | $_____ | $_____ | $_____ |
| _____ | _____ | $_____ | $_____ | $_____ |
| _____ | _____ | $_____ | $_____ | $_____ |

_____

$_____

$_____

$_____

The aggregate amount of fees and expenses *paid* to the Applicant to date for services rendered and expenses incurred herein is:

$_____

Applicant:_____

Date: _____ By:_____

(signed)

## RULE 608. RULES OF PROFESSIONAL CONDUCT

The *Rules of Professional Conduct for the Northern District of Illinois* shall apply in all proceedings and matters before this Court. The discipline of attorneys shall be in accordance with local General Rules 3.50 through 3.79.

*Committee Note*: The *Rules of Professional Conduct for the Northern District of Illinois* apply to all counsel appearing before the District and Bankruptcy Courts of the District. The reference to those rules and the associated disciplinary rules will make clear to local counsel that they are bound by those rules and serve to point out to non-local counsel where they might find local rules of conduct and attorney discipline.

## RULE 700. SURPLUS ESTATES

Should assets in any Chapter 7 proceeding be more than sufficient to pay 100% of all creditor claims and administration claims as provided in § 726(a)(1-4) of the Bankruptcy Code, then the Chapter 7 trustee is responsible for payment of interest as provided in § 726(a)(5).

*Committee Note*: With regard to the unusual cases where the estates are in surplus, it is appropriate to fix by this rule a duty for payment of interest. Trustees have sometimes disregarded § 726(a)(5), and the result is that interest is not paid except on motion and notice by some creditor or the court. Without this rule, the debtor may have a windfall if no one makes the motion. This can be egregious in cases where small creditors are not represented and only large creditors with counsel are paid interest on their claims.

## RULE 701. MOTIONS OF PARTIES TO DISMISS CHAPTER 7 PROCEEDINGS

### A. Procedure Generally

Any trustee or party in interest may move to dismiss a Chapter 7 proceeding by delivering the original and one copy of each of the following to the clerk:

(1) a completed request for notice of hearing on the form approved by the Court and supplied by the clerk;

(2) a motion slip;

(3) a notice of motion with a certificate indicating service on the parties of record; and

(4) the motion to dismiss.

### B. Date of Presentment

The date of presentment for the motion to dismiss shall be no less than 28 calendar days from the date the papers referred to in section A of this rule are delivered to the clerk nor more than 35, except to comply with the last sentence of Rule 402 B of these rules. The date and time of presentment shall be set for a date and time that the assigned judge normally hears new motions in Chapter 7 cases.

### C. Notice of Motion to Dismiss to be Sent by Clerk

Upon receipt of the papers referred to in section A of this rule, the clerk shall cause notice to be sent pursuant to Bankruptcy Rule 2002.

### D. Cost of Service to be Paid to Clerk

The cost of the service of notice of dismissal shall be paid to the clerk by the party requesting by the party requesting same unless excused by an order of Court, or by the trustee if there are sufficient assets available in the estate.

*Committee Note:* This procedure has been followed since it was promulgated by the General Order of 22 February 1989.

## RULE 900. ASSIGNMENT OF JUDGE IN CHAPTER 9 PROCEEDINGS

Upon the filing of any proceeding under Chapter 9 of the Bankruptcy Code, the clerk will not assign such proceeding to the calendar of any judge, but will immediately inform the chief judge of such proceedings. The chief judge will thereupon inform the chief judge of the Court of Appeals for the Seventh Circuit of such proceeding and request that the latter designate pursuant to 11 U.S.C. § 921(b) the judge to conduct the case.

*Committee Note:* Section 921(b) of the Bankruptcy Code provides that the chief judge of the Circuit will designate the judge to preside over any case filed under Chapter 9. This rule establishes procedures to effectuate that provision.

**RULE 1000. REFERRAL OF DISPUTES TO MEDIATION**

The parties to any dispute pending before a bankruptcy judge may request entry of an order referring the dispute to mediation under these Rules by presenting to the judge a bankruptcy mediation motion, in the form appended to and make a part of this rule, which may be deemed a routine motion in accordance with local Bankruptcy Rules 402 and 403. Each bankruptcy mediation motion shall be signed by the disputing parties and shall be accompained by a signed bankruptcy mediation agreement, in the form appended to and made a part of this rule. The motion may be made at any time. The bankruptcy mediation motion shall state whether the parties have agreed on a person to serve as mediator, and if so, shall identify the proposed mediator. If the parties have not agreed on a person to serve as mediator, the bankruptcy mediation motion may name any mediator from the list maintained by the clerk of the Court pursuant to local Bankruptcy Rule 1004 whom a party wishes to exclude from service as mediator. Upon presentation of a Bankruptcy Mediation Motion, the judge shall enter an order referring the dispute to mediation under these Rules.

*Rule 1000 (Form): Bankruptcy Mediation Motion*

**[Case/adversary caption]**

**BANKRUPTCY MEDIATION MOTION**

The undersigned parties ("Parties") hereby request that this Court enter an order referring the following dispute to mediation pursuant to the local Bankruptcy Rules:

(brief description of the nature and status of the dispute)

Have the parties agreed upon a mediator? Yes/No

If the parties have agreed upon a mediator, state the name, address and phone number

of the mediator:

If the parties have not agreed upon a mediator, and do not notify the clerk of Court that they have agreed upon a mediator within seven days of the entry of an order of reference to mediation, the clerk will randomly assign a mediator from the list of mediators maintained by the clerk pursuant to local Bankruptcy Rule 1004A. If any mediators on this list are unacceptable as mediators for this dispute, list their names below, or submit their names to the clerk within seven days from the entry of the order of reference. Unaccepable mediators:

The Parties have agreed to enter into mediation with the intention of reaching a consensual settlement of their dispute. In addition, the Parties have signed a Mediation Agreement pursuant to local Bankruptcy Rule 1000B. The Parties and their counsel agree to be bound by the local Bankruptcy Rules governing mediation and to proceed in a good faith effort to resolve this dispute.

Signed: Print name:

Dated:_____, 199_____

*Rule 1000 (Form):* *Bankruptcy Mediation Agreement*

**[Case / adversary caption]**

## BANKRUPTCY MEDIATION AGREEMENT

This is an agreement between and , (hereinafter referred to as "the Parties"), and their representatives. The Parties have agreed to enter into mediation with the intention of reaching a consensual settlement of their dispute.

1. The Parties agree to make complete and accurate disclosure of all information necessary for an understanding of each party's factual and legal position.

2. The Parties, together with their representatives and privities, agree to comply with the provisions of the local Bankruptcy Rules governing confidentiality and discovery of mediation proceedings, and further agree that disclosure by a party of privileged information to the mediator does not waive or otherwise adversely affect the privileged nature of the information. However, nothing in this agreement shall be construed to prevent or excuse the Parties or their privities from reporting matters such as crimes, imminent threats of bodily injury, or such other matters as to which the law imposes a duty to report.

3. The Parties and their representatives understand that the Mediator is not required either to offer legal advice or to render any opinion or decision in connection with the mediation, and that the Mediator's role is to aid them in seeking a fair agreement in accordance with their respective interests. The Parties understand that they have a right to be represented by legal counsel in the mediation proceedings, and that such representation is recommended by the court. None of the Parties or any of their privities will employ the Mediator nor any member of his or her firm in any legal proceeding or other matter relating to the subject of the mediation.

4. Any Party may withdraw this dispute from mediation at any time pursuant to local Bankruptcy Rule 1002F.

5. The Parties agree to share the fees and expenses of the Mediator pro rata.
*Or*
The Parties agree to share the fees and expenses of the Mediator as follows:

_____.[*Omit the provision that does not apply*.]

However, any party who fails to comply with the Bankruptcy Mediation Rules or the terms of this agreement will be responsible for any expenses of the other parties arising out of the failure to comply.

6. The Parties hereby release, indemnify and hold harmless the Mediator from any liability arising in connection with the performance of his or her duties as Mediator in accordance with this
Agreement and the local Bankruptcy Rules. However, nothing in this Agreement shall release

the Mediator for liability arising from the willful derogation of his or her duties as mediator.

7. The local Bankruptcy Rules governing mediation are expressly made a part of this agreement and are incorporated by reference herein. The Parties agree to be bound by these rules.

8. The Parties expressly waive any requirement of the Federal Rules of Bankruptcy Procedure that relief pursuant to or arising out of this mediation be sought in the form of a complaint, and hereby consent to the application of Fed.R.Bankr.P. 9014 to any request for relief relating to this agreement. Furthermore, to the extent that any such request for relief is not a core proceeding under 28 U.S.C. § 157(b), the Parties hereby agree that a bankruptcy judge may nevertheless enter appropriate orders and judgments with respect to the request for relief.

I have read, understand and agree to each of the provisions of this agreement.

SIGNED: DATED:

## RULE 1001. SELECTION OF A MEDIATOR

### A. Selection or Exclusion by the Parties.

The parties to a dispute submitted to mediation under these Rules may select the person initially requested to serve as mediator either by identifying that person in their Bankruptcy Mediation Motion or by filing a desgination of an agreed mediator with the clerk of Court, within seven days after entry of the order of reference to mediation. If the parties do not select a mediator, any party may file with the clerk of Court, within seven days of the entry of the order of reference to mediation, a designation of any mediator from the list maintained by the clerk pursuant to local Bankruptcy Rule 1004 whom that party wishes to exclude from service as mediator.

### B. Selection by the Clerk

If the parties do not select a mediator, the clerk of the Court shall randomly assign a mediator from the list maintained by the clerk pursuant to local Bankruptcy Rule 1004, other than any mediator whom a party has excluded in a Bankruptcy Mediation Motion or a disignation filed under section A of this rule.

### C. Acceptance or Declination by the Mediator

The clerk shall promptly notify the person selected as mediator of the selection, including with the notification a copy of any Bankruptcy Mediation Motion and of the order referring the dispute to mediation. Within seven days of the notification, the mediator selected (1) shall discuss with the parties his or her availability to serve and, if available, the terms of compensation under which he or she would be willing to serve, and (2) shall file with the clerk and serve on the parties to the dispute either (a) a statement of acceptance together with an affidavit of disinterestedness, or (b) a statement declining to serve as mediator.

**D. Selection of an Alternative Mediator**

Upon receipt of a statement of declination by the selected mediator, or upon the passage of seven days from notice of the selection without a response from the selected mediator, the clerk shall notify the parties that the selected mediator will not serve. Within seven days of such a notice, the parties may slelct an alternate mediator or specify mediators for exclusion, pursuant to section A of this rule. If the parties fail to make such a selection within seven days from the notice, the clerk shall make the selection of an alternate mediator pursuant to section B of this rule. The alternate mediator shall be notified and shall respond as provided in section C of this rule.

## RULE 1002. MEDIATION PROCEDURE

### A. Effect of Mediation on Other Pending Matters

The referral of a dispute to mediation does not relieve the parties from complying with any other court orders or applicable law and rules. Referral to mediation does not stay or delay discovery, pre-trial hearing dates, or trial schedules unless otherwise provided by court order.

### B. Scheduling of a Mediation Conference; Submission of Materials

After consulting with all counsel and pro se parties, the mediator shall promptly schedule, at the earliest practicable date, a convenient time and place for a mediation conference, and shall give at least seven days notice to all parties of the date, time and place of the mediation conference. The mediator may include in the notice of the mediation conference a direction to the parties to submit statements of their positions, copies of relevant documents, evidentiary exhibits, or other materials that the mediator believes will be helpful in the mediation process. The parties shall submit to the mediator all materials specified by the mediator, and serve copies on all other parties, at least three days prior to the mediation conference.

### C. Attendance at the Mediation Conference

The following individuals shall attend the mediation conference unless excused by the mediator:

1. Each party who is a natural person;
2. For each party that is not a natural person, either
   (a) a representative who is not the party's attorney of record and who has full authority to negotiate and settle the dispute on behalf of that party, or
   (b) if the party is an entity that requires settlement approval by a committee, board or legislative body, a representative who has authority

to recommend a settlement to the committee, board or legislative body;

3. The attorney who has primary responsibility for each party's case; and
4. Any other entity determined by the mediator to be necessary for a full resolution of the dispute referred to mediation.

**D. Conduct of the Mediation Conference**

(1) The mediator shall preside over the mediation conference, with full authority to determine the nature and order of presentations, and the time and place of any continuances. The mediator may direct that additional parties attend or additional materials be submitted at any continuance of the mediation conference.

(2) Except as the mediator may otherwise direct, rules of evidence and procedure shall not apply to the mediation process.

(3) The mediator may make oral or written comments or recommendations to the parties, but is not required to do so.

(4) No material submitted to the mediator or prepared in connection with the mediation conference, except as otherwise specified in these Rules, shall be filed with the court as part of the mediation process.

**E. Resignation of Mediator.**

The mediator may resign from the mediation at any time during the mediation process, by filing a notice of resignation with the clerk of the Court, with service on all parties, stating the reason for the resignation. A new mediator will thereupon be selected in conformity with the provisions of Rule 1001 D. The new mediator shall be served with a copy of the notice of resignation in addition to the other materials specified by Rule 1001 C. The clerk shall

attach a copy of the notice of resignation to the mediator's certificate maintained pursuant to local Bankruptcy Rule 1004 A.

### F. Withdrawal of a Dispute from Mediation

Any party may withdraw a dispute from mediation at any time upon the filing of a statement of withdrawal with the clerk. The clerk shall promptly notify the judge assigned to the case of the withdrawal.

## RULE 1003. POST MEDIATION PROCEDURES

### A. Preparation of Documents Required to Effectuate Settlement

If settlement is reached regarding the dispute referred to mediation, the parties, with the assistance of the mediator, shall determine who will prepare any documents (e.g., agreements, stipulations, motions or agreed orders) required to implement the settlement reached.

### B. Report by the Mediator

Within seven days after the mediator determines that the mediation is concluded, either by settlement or by withdrawal, the mediator shall file with the clerk and serve on the parties a completed Mediator's Report, in the form appended to and made a part of this rule.

*Rule 1003 (Form):* *Mediator's Report*

**[Case/adversary caption]**

**MEDIATOR'S REPORT**

I, _____, mediator for the dispute in the above captioned matter/proceeding, report the following:

1. A mediation conference has been held in this matter/proceeding.

2. A settlement of this matter was/was not reached (*circle one*).

3. If a settlement was reached, _____will prepare the written stipulations, motions or agreed orders.

Date:_____
Signed:_____

_____
(*Type or Print Name*)

## RULE 1004. LIST OF MEDIATORS

### A. Maintainance by the Clerk of a List of Mediators and a File of Mediator's Certificates

The clerk of the Court shall maintain and make available to the public a list of mediators, consisting of the name, address, and telephone numbers of each person who has filed with the clerk the certificate specified by section B of this rule, and whose name has not been withdrawn or removed pursuant to section C of this rule. The clerk shall further maintain and make available to the public a file containing the certificates filed by those persons whose names are included on the list of mediators. Inclusion on the list does not constitute certification by the Court of the qualifications of the mediator.

### B. Filing and Form of Mediator's Certificates

Any adult person may be included in the list of mediators maintained by the clerk of the Court pursuant to this Rule. In order to be included, such a person shall file with the clerk a completed mediator's certificate in the form appended to and made a part of this rule. Each mediator included on the list shall promptly file amendments to the certificate, whenever necessary, to disclose any substantial change in the information provided in the certificate. In addition, each mediator included in the list shall file a complete, updated certificate at no more than three year intervals.

### C. Withdrawal and Removal from the List of Mediators

Any mediator may voluntarily withdraw from the list of mediators at any time by providing written notification to the clerk of the Court, who shall thereupon remove the name of the mediator from the list of mediators and remove that mediator's certificate from the file of mediator's certificates. If a mediator fails to update his or her certificate pursuant to section B of this rule or if the chief judge notifies the clerk of Court that a mediator has

failed to accept at least one pro bono matter per year assigned to the mediator pursuant to local Bankruptcy Rule 1006, the clerk shall remove the name of the meditator from the list of mediators and remove the mediator's certificate from the file of mediator certificates.

*Rule 1004(Form) Mediator's Certificate*

**UNITED STATES BANKRUTCY COURT**
**NORTHERN DISTRICT OF ILLINOIS**

**MEDIATOR'S CERTIFICATE**

I, the undersigned, hereby apply for designation on the List of Mediators in the United States Bankruptcy Court for the Northern District of Illinois. In making this application**,** I certifiy under penalty or perjury that all of the following information is true and correct.

1. Nature and level of training and experience in mediation (include names, locations, dates, and CLE credit hours, where applicable, for any mediation training programs you have completed):

*2.* Nature and length of experience in bankruptcy (describe your experience as attorney, trustee, accountant, liquidator, reorganization specialist, assignee or in any other bankruptcy-related field in which you have special expertise):

3. Professional licenses (identify any professional license that you hold relevant to your service as mediator, including the issuing body and the date first issued):

4. Membership in professional organizations (identify any professional memberships relevant to your service as mediator to which you currently belong or have belonged in the past and state the time periods during which you were a member):

5. (a) Have you ever been the subject of a finding of misconduct in a disciplinary proceedings that resulted in the suspension or revocation of your professional license or a public censure?:_____

(b) Have you ever resigned from a professional organization while an investigation was pending into allegations of misconduct which would warrant discipline, suspension, disbarment or professional license revocation?:_____

(c) Have you ever been removed for cause as a mediator?:_____

(d) Have you ever been convicted of a felony?:_____

6. If the answer to any part of question 5 is "Yes," set forth the circumstances surrounding the action in question, including the relevant dates and circumstances:

7. Other relevant experience, skills, honors, publications, or other information:

8. Counties in which you are available to conduct mediation conferences:

9. General Affirmations:

(a) I have read the local Bankruptcy Rules of the Bankruptcy Court for the Northern District of Illinois relating to the mediation of disputes.

(b) I agree to comply fully with the relevant provisions of the local Bankruptcy Rules, as well as this Court's General Orders and any modifications thereto, regarding mediation.

(c) I will not accept appointment as a mediator in any proceeding or matter unless at the time of acepting the appointment:

(1) I qualify as a "Disinterested Person" as defined by 11 U.S.C.§ 101, I am free of financial or other interests pursuant to 28 U.S.C. § 455 which would disqualify me if I were a judge, and I am unaware of any other reasons that would disqualify me as a mediator; or

(2) I have fully disclosed any potentially disqualifying circumstances and they have been waived by all parties.

(d) Upon learning that I am no longer qualified to serve as a mediator pursuant to the provision of local Bankruptcy Rule 1004 C of this Court, I will immediately contact the clerk of the Court and any parties for whom I have accepted appontment as mediator.

(e) I consent to public disclosure of the information contained in this Application.

Dated:_____ Signature: _____

*(Print or Type)* Name: _____

Address: _____

Telephone: _____

**RULE 1005. COMPENSATION**

Prior to the commencement of the mediation conference, the mediator and the parties to the mediation shall enter into a written agreement setting forth the fees and expense to be paid to the mediator by each party. A copy of the agreement shall be filed with the court. Nothing in these Rules relieves a mediator or any party to a mediation from complying with applicable section of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and these Rules governing the retention and payment of professional persons.

**RULE 1006. PRO BONO MEDIATION**

If one or more of the parties to a dispute cannot afford to pay the fees of a mediator, but all parties have agreed to submit the matter to mediation, any of the parties may present a motion to the Chief Judge, on notice to the other parties, to have the dispute designated for pro bono mediation. If the motion is granted, the chief judge shall appoint a mediator from the list maintained by the clerk of th Court and notify the mediator of the appointment. The appointed mediator shall respond in the manner specified by local Bankruptcy Rule 1001 C, except that the mediator shall neither discuss nor receive compensation or reimbursement of expenses from any of the parties. If the mediator declines the appointment, the clerk shall so notify the chief judge, who shall appoint an alternate mediator.

**RULE 1007. CONFIDENTIALITY**

A. Nondisclosure of Mediation Proceedings

The mediator and the participants in the mediation and their privities shall not divulge, outside the mediation, unless compelled by the legal process notice of which is served on the other participants in the mediation and except as otherwise provided by these Rules or other applicable law, any oral or written information disclosed in the course of mediation process by any participant in the mediation process, including but not limited to the following:

(1) views expressed or suggestions made by a party with respect to a possible settlement of the dispute;

(2) the fact that another party had or had not indicated willingness to accept a proposal for settlement made by the mediator;

(3) recommendation made or views expressed by the mediator;

(4) statements or admissions made by a party in the course of the mediation; and

(5) documents prepared in connection with the mediation.

**B. Prohibition Against Discovery**

Participants in the mediation process shall not compel any other participant, including the mediator, to disclose outside the mediation conference, except as otherwise provided by these Rules, any oral or written information disclosed in the course of the mediation process, including but not limited to the items set forth in section A of this rule.

**RULE 1008. MEDIATOR'S LIABILITY**

The parties shall agree to, and include in the mediation agreement, a provision to release, indemnify and hold harmless the mediator from any liability arising in connnection with the performance of his or her duties as mediator in accordance with these Rules, other than intentional violations of these Rules.

**RULE 1009. TERMINATION OF MEDIATION**

Upon the filing of a mediator's report pursuant to local Bankruptcy Rule 1003 B or the filing of a notice withdrawing a matter from mediation pursuant to local Bankruptcy Rule 1002 F, the mediation will be terminated and the mediator relieved from further responsibilities in the mediation, without further court order.

**RULE 1010. OTHER DISPUTE RESOLUTION PROCEDURES**

Nothing contained in these Rules is intended to prevent or discourage the parties or the court from employing any other method of dispute resolution.

**RULE 1011. EXTENSION OR REDUCTION OF DEADLINES**

For cause, on motion by any party or a mediator, the court may extend or reduce any time limit provided for by these Rules for action to be taken in connection with the mediation process.

**RULE 1100. DISCLOSURE STATEMENTS**

Unless excused by the judge, the following requirements will apply to all disclosure statements or amended disclosure statements:

(1) Each disclosure statement will include the following in addition to all matters required by the Bankruptcy Code and Bankruptcy Rules:

(a) At the beginning, before any other material, an introductory narrative that summarizes the nature of the plan and includes a clear description of the exact proposed treatment of each class showing total dollar amounts claimed due for each class and amounts and timing of payments to be made under the plan, and also all sources and amounts of funding thereof. That narrative should plainly identify all classes, the composition of each class (as to number and type of creditors), the amount of claims (specifying any that are to be disputed and how they will be treated under the plan), and the amount (dollar and/or percentages) to go to each class. The distinction between pre-and post-petition creditors should be made clear; and

(b) A summary exhibit setting forth a liquidation analysis as if assets of the debtor were liquidated under Chapter 7.

(2) Except where liquidating plans are proposed, each disclosure statement will also include the following:

(a) a projected cash flow and budget showing all anticipated income and expenses including plan payments, spread over the life of the plan or three fiscal years, whichever is shorter;

(b) a narrative summarizing the scheduled assets and liabilities as of the date

of filing in bankruptcy, reciting the financial history during the Chapter 11 (including a summary of the financial reports filed), describing the mechanics of handling initial and subsequent disbursements under the plan, and identifying persons responsible for disbursements; and

(c) consolidated annual financial statements (or copies of such statements for the years in question) covering at least one fiscal year prior to bankruptcy filing and each fiscal year of the debtor-in-possession period.

*Committee Note*: This rule is now routinely ordered by several judges in this District. It will, to some extent, standardize information presented in disclosure statements. Judges who prefer not to follow this rule, and judges who decide to exempt small cases from it, may excuse compliance.

## RULE 1101. COUNTING CONFIRMATION BALLOTS IN CHAPTER 11 CASES

Except as otherwise ordered, the following shall apply in all cases pending under Chapter 11 of the Bankruptcy Code:—

(1) Ballots accepting or rejecting a plan are to be filed with the clerk.

(2) Prior to the confirmation hearing, counsel for each plan proponent shall tally all ballots filed with the clerk and prepare a report of balloting which at a minimum shall include:—

(a) a description of each class and whether or not it is impaired (for example, "Class I, unsecured creditors, impaired");

(b) for each impaired class, the number of ballots received, the number of ballots voting to accept and their aggregate dollar amount, and the number of ballots voting to reject and their aggregate dollar amount;

(c) a concluding paragraph indicating whether the plan has received sufficient acceptance to be confirmed;

(d) a completed ballot form substantially similar to the one appended to this rule;

(e) appended to the completed ballot form copies of all ballots not counted for any reason and a statement as to why the same were not counted; and

(f) a certificate that all ballots were counted for the classes for which those ballots were filed except for ballots appended to the report.

(3) Counsel for each plan proponent shall:—

(a) file the report of balloting on that plan with the clerk;

(b) serve notice of such filing together with a copy of the report on the United States Trustee, all parties on the service list, and all parties who have filed objections to confirmation; and

(c) deliver a copy thereof to the chambers of the presiding judge.

(4) The notice and copy of the report shall be filed and served at least two business days prior to the hearing on confirmation, unless otherwise ordered. Proof of such

service and a copy of the notice and report shall be filed with the clerk prior to the confirmation hearing.

*Committee Note*: This rule is based on local Interim Bankruptcy Rule 4.

## RULE 1102. NOTICE TO CLOSE CASE OR ENTER FINAL DECREE

Unless excused by the judge, debtors or other partiesininterest moving after Chapter 11 plan confirmation either to close the case or enter final decree will—

(1) give notice of such motion to the United States Trustee, any Chapter 11 trustee, and all creditors, and

(2) state within the notice or motion the actual status of payments due to each class under the confirmed plan.

*Committee Note*: This rule will establish a uniform procedure for closing Chapter 11 cases or entering final decrees after plan confirmation. It will also inform creditors what payments the debtor contends have been made.

**RULE 1103. CLAIMS DOCKETS**

The clerk of the Court will supervise preparation of claims dockets in all cases. However, if the number of claimants in any case exceeds 500, the debtor will employ, at debtor's expense, an entity to assist the clerk of the Court in performance of this function under direction of the clerk of the Court, unless excused by order of the judge.

*Committee Note*: Where the number of claimants is large, the duty of the clerk of the Court to prepare a claims docket is quite heavy. It is appropriate that the cost of this be shared by a debtor in Chapter 11. Administrative Office regulations guide the clerk of the Court in accepting such assistance. See Rule 313 for related requirement.

## RULE 1300. CONVERSION FROM CHAPTER 13 TO CHAPTER 7

All notices of conversion of Chapter 13 cases to Chapter 7 cases, pursuant to Section 1307(a) of the Bankruptcy Code and Fed.R.Bankr.P. 1017(d), shall be filed in the Clerk's Office in triplicate, accompanied by (1) proof of service on the designated Chapter 13 standing trustee and the United States Trustee, and (2) any required additional filing fee.

*Committee Note*: This rule is based on local Interim Bankruptcy Rule 3. This implements § 1307(a), which permits conversion from Chapter 13 to Chapter 7 merely by the filing of a notice.

**RULE 1301. COPIES OF ORDERS**

If a copy of a proposed order submitted to the court for entry has not otherwise been served on the standing Chapter 13 Trustee, such copy must be supplied to the Trustee in open court or, when draft orders are to follow the hearing, with the order submitted to the court.

*Committee Note*: This is intended to assist the standing trustee in the effective and efficient administration of Chapter 13 cases.

## RULE 1302. CLAIMS AND CLAIMS REGISTERS

### A. Proofs of Claim to be Filed with Clerk

Proofs of claims in cases under Chapter 13 of the Bankruptcy Code shall be filed with the clerk. Such claims will be date and time stamped by the clerk as received, and made available by the clerk either on site or by delivery to the case standing trustee for copying. If delivered, the standing trustee shall promptly return the original claim to the clerk.

### B. Standing Trustee to Maintain Claims Register

Standing trustees in all Chapter 13 cases shall maintain a claims register of all claims filed in each proceeding, and may do so electronically. Each claim register shall include the name and address of each creditor; the amount claimed; whether the claim is secured or unsecured; whether the claim is administrative; and the sequence of payments provided under the debtor's plan or pursuant to any order of court.

### C. Transfer of Claims: Recording, Notice of

The standing trustee shall record each transfer of a creditor's claims on the claims registers, send notice of such transfer pursuant to Fed.R.Bankr.P. 3001(e)(2)(3) and (4), and promptly deliver all original filings with respect to such transfer to the clerk.

### D. Trustee to Answer Inquiries re Claims Register

The standing trustees will promptly answer requests for information regarding claims registers, and will supply copies of such claim registers upon payment of any charges for actual costs of copying that are approved by the United States Trustee.

### E. Clerk to Establish Procedures; Report Deficiencies to Chief Judge

The clerk of the Court shall establish procedures and practices to inspect and verify the implementation of this rule and Rule 1304, and shall promptly report any deficiencies in compliance to the chief judge with copies to the United States Trustee and to the standing trustee(s) affected. If the deficiencies affect the standing trustee in the Western Division, copies of the report shall be given promptly to the judge senior

in length of service permanently assigned to that Division.

**F. Standing Trustee and Employees Not Employees of Court**

Nothing in this rule or in Rule 1304 is intended to indicate that the standing trustees or persons employed by them are employees of the clerk of the Court or the United States of America, or that they have any right to compensation or benefits by reason of this rule.

*Committee Note*: The Chapter 13 standing trustees are by law under supervision of the United States Trustee as to their administrative duties and compensation. To handle the mass of Chapter 13 case filings, the standing trustee aids the clerk in performance of the clerk's duties to maintain claims dockets and mail notices. This rule and Rule 1304 formalize practices now in use. Existing practices and this rule apply *Guidelines on use of Outside Facilities and Services* promulgated by the Judicial Conference of the United States on 7 March 1989, and Conference *Guidelines on Noticing* promulgated in the same month. The first such *Guidelines* were based on authority in 28 U.S.C. § 156(c). The latter *Guidelines* assisted in implementation of a provision in the Judiciary's appropriation legislation which directed the Administrative Office of the United States Courts to permit and encourage preparation and mailing of notices by persons other than the clerk of the bankruptcy court.

## RULE 1303. NOTICES SENT BY CHAPTER 13 TRUSTEES

### A. Standing Trustee to File Certificate of Service With Clerk

When providing noticing service not otherwise provided directly by the clerk, the Chapter 13 standing trustee shall file with the clerk within two business days of mailing each notice a certificate of service to which is appended a copy of the notice and a list of names and addresses of parties to whom it was mailed.

### B. Payment of Costs to Standing Trustee of Mailing Notices

The cost of notices served by the standing trustees shall be paid by the standing trustees from funds authorized by the United States Trustee.

*Committee Note*: See *Committee Note* for Rule 1302.

## RULE 1304. NOTICE OF MOTION TO CONVERT ONE JOINT DEBTOR TO CHAPTER 7

When only one of two named joint debtors in a Chapter 13 case seeks to convert that a case to one under another chapter of the Bankruptcy Code, in addition to other required notices, the movant will give notice to the other joint debtor.

*Committee Note*: Where an attorney represents married debtors and one seeks to convert a Chapter 13 case to a case under another chapter and the other debtor does not seek such a change, the attorney will often attempt to continue to represent both debtors. While such differing approaches by the debtors do not necessarily create a conflict of interest, this rule is necessary to ensure that the non-moving party receives formal notice of the spouse's change in the case. Bankruptcy and marriage dissolution often come at the same time.

## RULE 1400. FILING OF MOTIONS FOR WITHDRAWAL OF REFERENCE

If a motion for withdrawal of reference is filed pursuant to 28 U.S.C. § 157(d) and Fed.R.Bankr.P. 5011, the clerk of the Court will transmit that motion to the clerk of the District Court for assignment to a judge of that Court pursuant to its rules.

*Committee Note*: This new rule specifies a procedure for the clerk to follow, a procedure not otherwise provided for by law or rule.

## APPENDIX A. SECTION 1126 BALLOT FORM

*IN THE UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF ILLINOIS*

CASE NAME _____ CASE NUMBER _____ CONFIRMATION HEARING DATE _____

## SECTION 1126 BALLOT FORM

| | # BALLOTS CAST | # ACCEPTING | # REJECTING | $ ACCEPTING | $ REJECTING | CLASS ACCEPTING | CLASS REJECTS |
|---|---|---|---|---|---|---|---|
| CLASS I _____ | | | | | | | |
| CLASS II _____ | | | | | | | |
| CLASS III _____ | | | | | | | |
| CLASS IV _____ | | | | | | | |

| | YES | NO |
|---|---|---|
| PLAN ACCEPTED | | |

**Please note the following provisions of Title 11. Section 1126 of the United States Code**

(c) A class of claims has accepted a plan if such plan has been accepted by creditors other than any entity designated under subsection (e) of this section, that hold at least two-thirds in amount and more than one-half in number of the allowed claims of such class help by creditors, other than any entity designated under subsection (e) of this section, that have accepted or rejected such plan.
(d) A class of interests has accepted a plan if such plan has been accepted by holders of such interest, other than any entity designated under subsection (e) of this section, that hold at least two-thirds in amount of the allowed interests of such class held by holders of such interests, other than any entity designated under subsection (e) of this section, that have accepted or rejected such plan.
(e) On request of a party in interest, and after notice and a hearing, the court may designate any entity whose acceptance or rejection of such plan was not in good faith, or was not solicited or procured in good faith or in accordance with the provisions of this title.

_____

**NAME OF PLAN PROPONENT**